



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>

ST

Given by Indiana R. R. Commission.

Ref. Form.

385.374

I 2

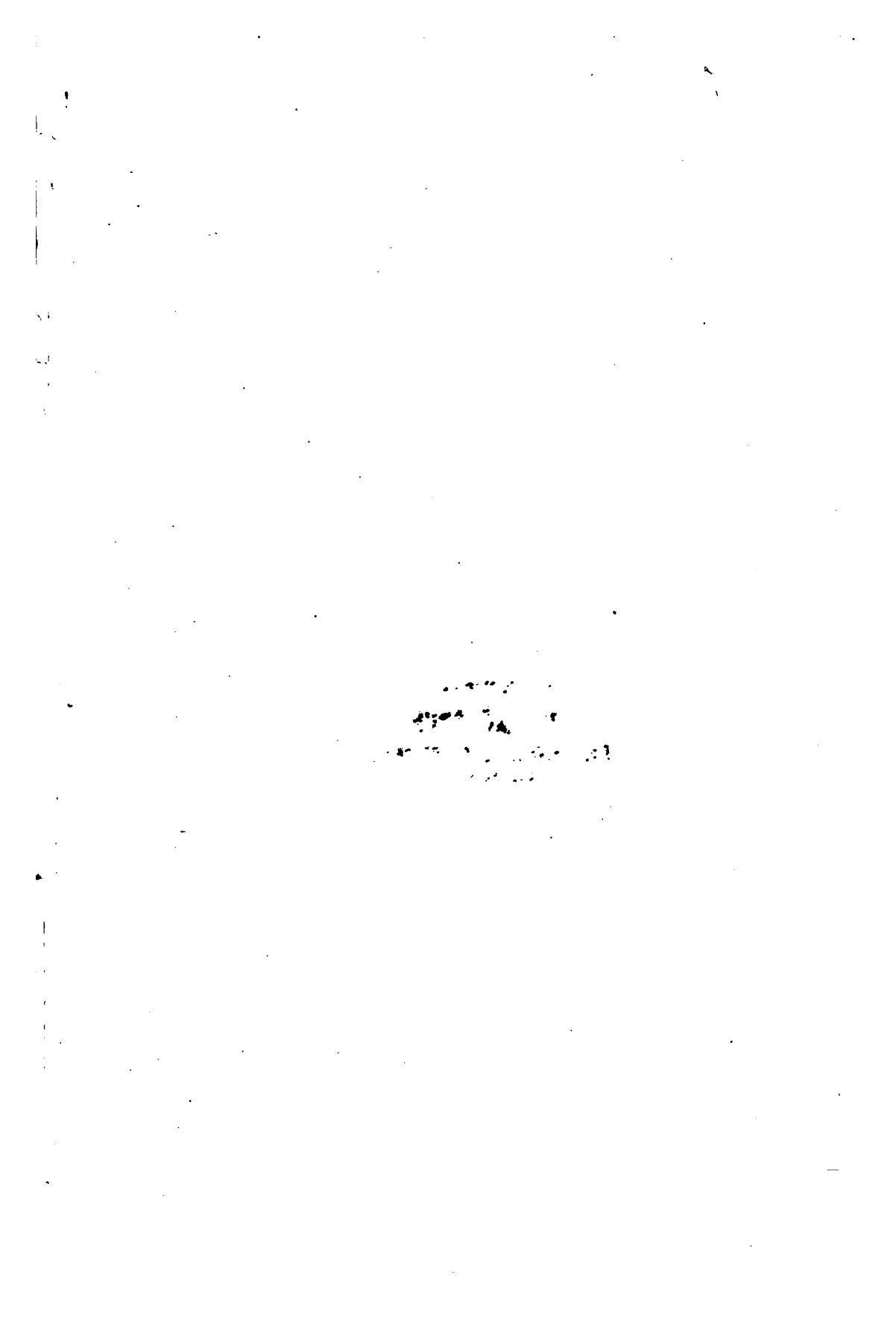
1944

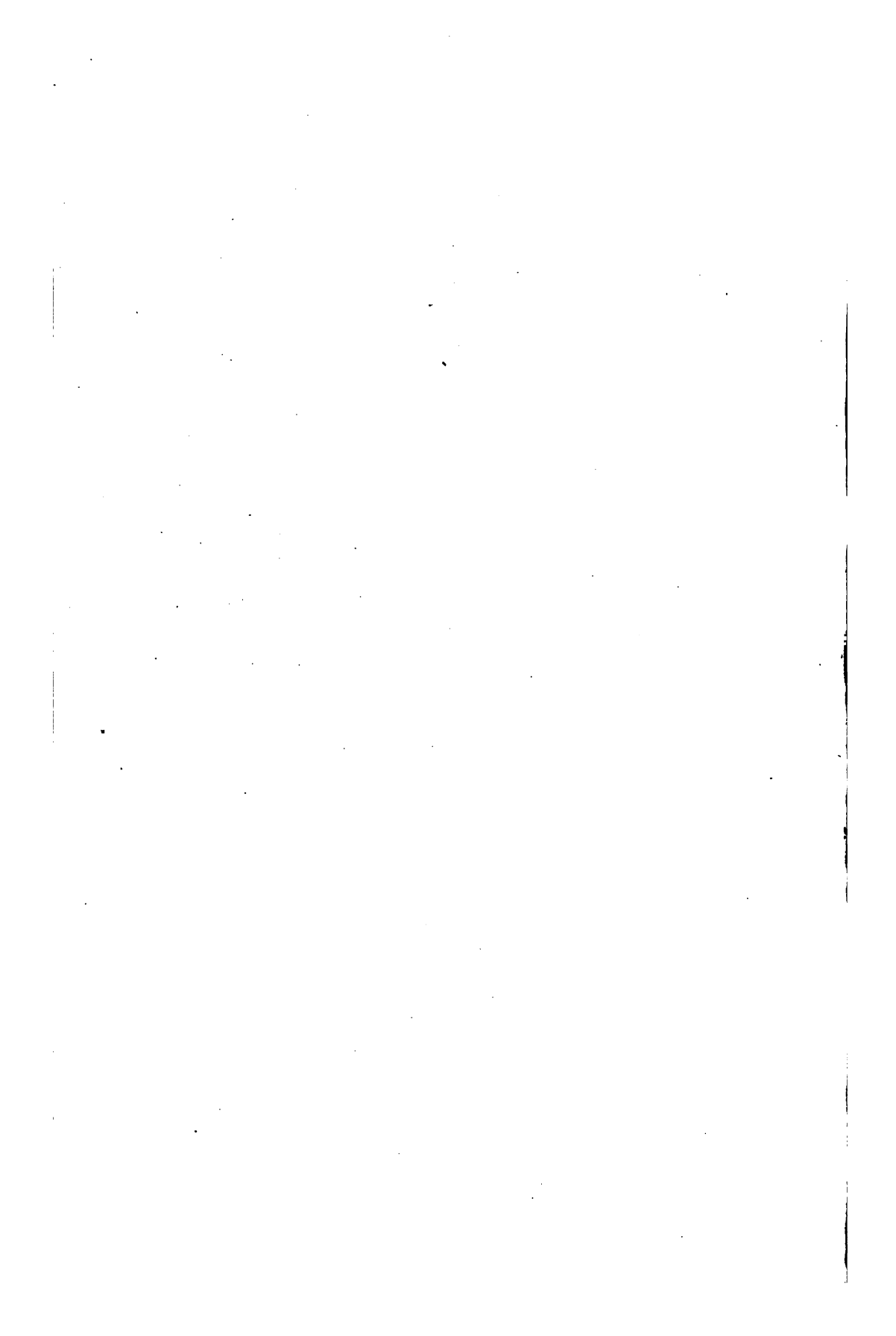
St Given by Indiana R. R. Commission
Pol. Econ.

385.374

I 2







THE STATE OF INDIANA

UNIVERSITY
of
CHICAGO LIBRARY

FIRST ANNUAL REPORT

OF THE

Railroad Commission

OF INDIANA

1906

TO THE GOVERNOR

STANFORD LIBRARY

INDIANAPOLIS:

WM. B. BURFORD, CONTRACTOR FOR STATE PRINTING AND BINDING
1906

Y 1263 311
 70
 Y 1263 311
 THE STATE OF INDIANA,
 EXECUTIVE DEPARTMENT,
 INDIANAPOLIS, November 27, 1906. }

Received by the Governor, examined and referred to the Auditor of State for verification of the financial statement.

OFFICE OF AUDITOR OF STATE,
 INDIANAPOLIS, November 27, 1906. }

The within report, so far as the same relates to moneys drawn from the State Treasury, has been examined and found correct.

J. C. BILLHEIMER,
Auditor of State.

November 28, 1906.

Returned by the Auditor of State, with above certificate, and transmitted to Secretary of State for publication, upon the order of the Board of Commissioners of Public Printing and Binding.

FRED L. GEMMER,
Secretary to the Governor.

Filed in the office of the Secretary of State of the State of Indiana, November 28, 1906.

FRED A. SIMS,
Secretary of State.

Received the within report and delivered to the printer December 7, 1906.

HARRY SLOUGH,
Clerk Printing Bureau.

185227

THE STATE OF INDIANA.

RAILROAD COMMISSIONERS.

UNION B. HUNT, Winchester, ChairmanTerm expires May 1, 1908
CHARLES V. McADAMS, Williamsport.....Term expires May 1, 1907
WILLIAM J. WOOD, EvansvilleTerm expires May 1, 1909

CHARLES B. RILEY, Secretary.

LEON E. MORTON, Clerk.

GEORGE U. BINGHAM, Consulting Engineer.

Office, Room 84 State House.

Public Hearing Room, 85 State House.

Commissioners' Room, 50 State House.

THE FIRST ANNUAL REPORT
OF THE
Railroad Commission
OF THE
STATE OF INDIANA

INDIANAPOLIS, IND., Oct. 31, 1906.

To the HONORABLE J. FRANK HANLY, Governor of Indiana:

As required by the law creating the Railroad Commission of Indiana, we respectfully submit its First Annual Report.

This report should contain a "full and complete account of transactions and proceedings" of the Commission, "together with the information gathered by such Commission as herein required, and such other facts, suggestions and recommendations as may be by it deemed necessary." (Acts 1905, Sec. 11, sub-div. b.)

This Commission, organized and effective May 1st, 1905, is the first Railroad Commission of this State. Three-fourths of the States of the Union had provided railroad commissions for the protection of their people before the State of Indiana passed a railroad commission act, and yet there were seven thousand miles of steam railroad in the State; its agricultural products, corn, wheat, oats and hay, were abundant; its mineral resources, especially coal, rock and clay, were practically inexhaustible, and its manufacturing and commercial interests were as flourishing and as increasing and important as those of any State in the federal government, or of any country of the world. And all these were in large part dependent upon railway transportation for market, for development and for success. There was no power in this State until this Commission,

on your recommendation, was provided (the Interstate Commerce Commission then having no power to fix rates), except the power of the railroad companies, the owners and managers of the roads and cars, to fix and collect transportation charges, and this power was generally exercised in accordance with the rule, and its many constructions of "What will the traffic bear?"

Many physical and relative facts, of weight in any consideration of railroad tariffs, point to low rates for the State of Indiana. The abundance of freight originating in the State, mentioned above, and the high class of part of it is one. Another, the topography of the State, making railroad construction and transportation on level ground, except in the southern part of the State, cheap, safe, easy and expeditious. Another, that railroad material is close at hand; steel and iron in Ohio and West Virginia and Pittsburgh, and Sheffield and Birmingham, and railroad timber and ties nearby in the State, and in Kentucky and Tennessee. Another, that railroad labor in construction work, in shop and in operation, often highly educated in the free public schools of the State is intelligent and reliable. Another, the geography of the State, Indiana having water, and water and rail routes, by the lakes north and northeast, and by the Ohio River, which public sentiment will speedily deepen to accommodate the heaviest traffic all the year, and which constitutes the entire southern boundary of the State, and which, with other connecting rivers, makes transportation free to all carriers, and low to all shippers east and south and southwest. And still another striking fact of situation, that Indiana south of the lakes and north of the Ohio River, near the United States center of population and manufacture, provides the direct way east and west for most of the through transcontinental roads of the country, and that vast quantities of through freight pass over Indiana rails east and west, this volume of business, if fairly considered, having a necessary tendency to reduce local class and commodity rates.

COAL RATES.

Appreciating these conditions, and moved by the facts in each case, the Commission has reduced freight rates in every formal case except one that has been filed. Perhaps its reductions in coal rates, accomplished not only in formal hearings, but in some cases by negotiations and adjustment with the carriers, the companies being entitled in these adjustment cases to credit for the spirit in which they met the wishes and suggestions of the Commission, may best illustrate the usefulness of the Commission to the people of the State. There are nearly ten thousand factories in this State, all of which should be operated with Indiana coal. There are five hundred thousand consumers of domestic coal in this State, and all these should burn Indiana coal. The output of Indiana coal is only ten million tons yearly; it should be three or four times as much, and even fifty million tons a year. Now, practically, Indiana is the chief market for Indiana coal. On the east thousands of tons are mined in Ohio, West Virginia and Western Pennsylvania, and this supply invades the eastern and northern, and even central portions of the State. On the south Kentucky mines operated with non-union labor compete successfully with Indiana operators, and on the west southern Illinois mines coal as far west as Belleville, less than fifteen miles from St. Louis, and reaches out to Chicago and the northwest by many ways. Some of our coals are not as valuable for some purposes as the eastern coals, and on this account it is necessary to make a lower rate, although generally our coals have great heat, steam and gas properties, and can be and would be used by all manufacturers where the rate justifies the use. The carriers, before the creation of the Commission, through a broad-gauge policy to preserve the factories in the Gas Belt, made a lower rate of 60 cents a ton to the manufacturers there, and the Commission, applying the "milling-in-transit" principle, sustained this rate. But in other directions the carriers were not so fair, and as a result of these cases, formal and informal, and rates fixed and adjustments made by the Commission, and the tariffs subsequently issued by the carriers, there has been to many points in the northern, central and southern sections of the State a very ma-

terial reduction in coal rates, extending from ten to fifty per cent., affording a very great saving in these charges to our people, as will be better illustrated by reference to the tables set out hereafter in this report.

CLASS RATES.

One of the most important cases before the Commission involved class rates in this State. The petition sought only to reduce such rates from Indianapolis on the Vandalia Railroad to Terre Haute, but its necessary effect will be to cause a revision of all class rates in this State. The Commission in this proceeding of Schnull & Co. v. Vandalia Railroad Company, reduced all the class rates on that line 33 1-3 per cent. On petition by both parties for a rehearing, the matter was opened up for readjustment, and the representatives of the commercial and traffic associations of the chief cities of the State, and the traffic managers of the carriers, were in conference with each other before the Commission. These parties failed to come to an agreement, and the Commission will proceed to finally decide the original case. It is certain that after, if not before, the decision, the carriers will revise these rates, adopting a basis which will cause a material reduction in class rates.

REDUCTION SAVING.

We have no means of estimating now with any degree of accuracy the exact amount at this time of money saved to our people by these changes in coal and class rates, but we believe it is not going too far to state that the reductions in coal and class and other rates, the result of the Commission and its work, will amount to \$250,000 a year.

FERTILIZER RATES.

Another important case involved a lower rate on an article which is used more and more by the farmers of the State, known as commercial fertilizer. The rate before this petition was filed was 11 cents per hundred pounds from Indianapolis to points on the Southern Railway in Indiana, and from Fort Wayne to

such Southern Railway points was 15½ cents per hundred pounds. After patient hearing and full consideration and comparison, we have reduced the rate to six cents per hundred pounds from Indianapolis to such points, and practically eight cents per hundred pounds from Fort Wayne to Southern Railway points, thus not only giving our fertilizer plants a better chance to operate in competition with the Southern plants at Nashville and Mount Pleasant, Tenn., adjacent to the phosphate rock fields, but we have provided a rate which should cheapen the cost to the producer and enable the farmers to use more fertilizer and thereby increase the output of their farms.

COAL OIL RATES.

The case before us, instituted by the Independent Coal Oil Companies against all the railroad companies, and really directed, in fact, if not in name, against the Standard Oil Company, is pending. One result already accomplished is the offer by the carriers to reduce the rate on oil by moving its classification from fourth to fifth class, but this was declined by the petitioners, and the case on agreement of all parties was set down for the 17th of December, 1906, when it will be heard and determined.

DUTIES, OBJECTS AND DIFFICULTIES; EFFECT.

In addition to its duties as to the supervision of rates, there are other matters devolving upon the Commission not less delicate and difficult. The organization of this new board of the State government, its correspondence and the information furnished by it, the frequent conferences of carriers and shippers under its supervision, the making of rules and maps, the institution of files, dockets, forms and proceedings, have all required labor and patience. The application and construction of a new law, especially in view of the fact that some of its provisions are confusing and are not executive—for instance the duty to supervise rates, and no power given to require the carriers to file their tariffs with the Commission, a very serious omission, which was overcome by the carriers generously agreeing to file their tariffs simply at the request of the Commission; alleged conflict of the statute

with the State and Federal constitutions, an appeal to the Appellate Court having been taken by the carriers in every rate case decided against them; these and like difficulties we have had to overcome. Our main idea, the proposition to accomplish results beneficial and fair to shippers, complainants and carriers, has been the rule of action in this Commission. Nearly two hundred cases have been before us. The largest number of them we have placed on our adjustment docket, and we have succeeded in most of them in making some arrangement satisfactory to both parties. Indeed, many of the carriers are wise and liberal enough to recognize that regulation by the State of corporate property clothed with a public use has come to stay, and they have promptly and fully acquiesced in many of these cases with the recommendations of the Commission. And, wherever we have found it possible to bring about an adjustment between the shipper and the carrier, we have thought it our duty to do so. A significant fact has often come to our notice, viz., that the mere fact that there is a Railroad Commission, a tribunal with the power of the State behind it, for shippers to appeal to, has corrected of its own force many grievances and faults that have heretofore been without remedy.

CAR SERVICE RULES.

An important matter was formally presented to the Commission by the Indiana Veneer & Lumber Company and S. Bash & Co. against all the railroads operating in the State, alleging that the demurrage rules enforced by the carriers were unjust, arbitrary and oppressive. The evidence taken in this matter required a thousand typewritten pages and involved the consideration and comparison of all car service rules prevailing throughout the country. The Commission, after oral argument and briefs of counsel and long consideration, adopted nine rules for car service, which will go into effect January 1, 1907. These rules seem to have met with the approval of the shippers, on the one side, as being the best we could provide under the limitations of our statute; and on the other side, the carriers, appreciating that none of these rules were intended to add to the distressing need of cars, have acquiesced in them, and they will become, without appeal, the law

governing such cases. The Commission expects these rules to do away with much of the friction heretofore existing, while they do not seriously impede the movement of cars.

SCARCITY OF CARS.

MOVEMENT OF COAL TO THE GAS BELT STOPPED.

Since its organization the Commission has been frequently appealed to to correct what was alleged to be discrimination in furnishing cars to shippers of various commodities. These matters were generally taken up by telegraph with the traffic and operating managers of the carriers and by members of the Commission going in person to the localities affected, and were often immediately corrected, as will be found by reference to many cases in our table of informal proceedings. The most serious difficulty of this kind commenced during the summer, when the Commission found that frequent embargoes were placed by the Big Four Railroad Company on the transportation of coal delivered to it at Terre Haute and found also that the Southern Indiana Railway Company and the Big Four Railway Company had disagreed about the interchange of business and had refused to do business with each other. This special matter of difference between these two companies was promptly adjusted by the Commission requiring them to immediately commence business with each other, and to submit their grievances to the Commission. The decision was made and acquiesced in by these companies, but even after this the coal via Terre Haute did not move, and complaints to the Commission, both from the coal operators on the one side and manufacturing establishments and consumers in the Gas Belt, and elsewhere, on the other side, who had yearly contracts for Southern Indiana coal, became more numerous and distressing, and the Commission, foreseeing what would take place in the winter months, promptly commenced negotiations with the carriers to endeavor to correct this very grave condition. Nothing having been accomplished in this way, on September 15, 1906, the Commission ordered that a public hearing should take place at Terre Haute and summoned before it the carriers, the coal operators and the consumers of coal, in order that the public light of inquiry might be thrown on these transactions, and the Commission

be given an opportunity to determine whether or not it had any practical remedy through its own orders or through the courts to get this matter in shape before the winter came on. After the hearing, which took place on the 21st of September, the conditions seemed to be relieved and further relief was had by the Commission procuring from the Southern Indiana Railroad Company, by personal interviews with its officers, the opening up for coal destined to some points in the Gas Belt of the route via Westport. However, this relief was of short duration. Shipments continued to be desultory and very much delayed, and on October 25, and for five consecutive days, the Big Four Railroad Company refused to receive any coal whatever from the E. & T. H. Railroad and took very little, if any, from any connections. The conduct of their business by the Big Four Company was of such a character that the cars of the E. & T. H. and Southern Indiana companies were being diverted to the business of the Big Four and to other business not contemplated by the rules of the American Railway Association, and the E. & T. H. and Southern Indiana companies refused at that time to do any further business with the Big Four to deliver to it any coal whatever. Meanwhile the Commission had appealed to W. H. Newman, the President of all the New York Central Lines, to come here in person to do something to put this matter in shape. His response was to refer the matter to his vice-president in charge of operation, and in a personal conference with him and other officers of the Big Four Company the final and only assurance that the Commission could get was either, "We will do our best," or, "We will guarantee nothing." Thereupon the Commission, being without further power, reported this matter to the Attorney-General and a suit was advised and commenced by him. Whether this will accomplish anything practical is in doubt, and yet to be determined. We report to you that this most serious and distressing condition has had our unfailing and exclusive attention, that we have proceeded to the extreme limits of our authority and have spared neither time nor effort, nor expense, in doing everything within our power.

INFORMATION ABOUT, AND DISCREPANCIES IN, CLASS RATES.

Under its power and duty to supervise rates in the State, the Commission has investigated the rates charged by the carriers, as well as it was able to do, and has found that very great discrepancies exist and that there are no uniform charges made for like distances, from the same junction points, even, on different lines, though the cost of transportation and the volume of business is approximately the same. It has compiled, through its clerk, on this subject, very full and accurate (so far as they could be made) tables showing these differences and calling attention of the shippers of the State in the various localities to the discrepancies in the rates charged by the carriers. These tables will be found in Appendix IV of this report, and will well repay shippers, who are interested, in giving them careful consideration and comparison.

INTERLOCKING CASES.

Under the law the approval of interlocking plants has been transferred from the Auditor of State to this Commission. About 46 such cases have been before the Commission. These have been referred to a consulting engineer, the plants carefully examined and when found to have been in strict accordance with the law, with the most modern devices for interlocking purposes, they have been approved by the Commission.

In fulfilling its duty in this regard, the Commission thought it best to summon before it the signal officers of all railroads operating in this State, and, with their counsel, the Commission has promulgated a set of rules for its guidance in these matters and for interlocking crossings of railroads in the State, which will be found in Appendix VI of this report.

GRAIN RATES.

When the Commission was organized there prevailed on most roads in this State a plus charge on grain shipments: i. e., in addition to charging the regular schedule rate certain companies charged a plus of two cents per hundred pounds on grain. Cer-

tain roads passing through the same territory charged the flat rate, and these roads passing and crossing other lines having the plus rate, resulting in compelling the elevators located on the crossing roads to pay this extra charge, which in some instances amounted to as much as \$1,500 a year to a single elevator, while they were compelled to buy their grain in competition with the elevator located on the line having the favored rate. Applications were made by several elevator firms in the State, requesting the Commission to investigate this subject, which was accordingly done under the provisions of paragraph C of Section 11 of the statute concerning interstate commerce. After the investigation, the Commission recommended to the interested lines that they correct their rates to correspond with rates on other lines. Subsequent to these investigations being made by the Commission, the principal lines in this State having such plus rates canceled the same. The plus rates yet remain in force on some minor lines in the State and are now under investigation by the Commission.

PROSECUTIONS.

Since the Commission has been organized it has instituted and caused to be instituted several prosecutions for violations of the law. One of these prosecutions was against the Monon Railroad for violating the long and short haul clause of the law in the transportation of coal to Cloverdale, Ind., for which it charged 90 cents per ton, while it carried coal to Greencastle, Ind., for 60 cents a ton, being a greater distance. Pending the hearing of this cause, the Monon Railroad made a reduction in the coal rates upon its entire line to conform to the long and short haul provisions of the law. These reductions amounted to from 5 to 37½ per cent., and in view of the fact that there was a controversy between counsel as to the meaning of the law, the Commission, in consideration of this very remarkable reduction in rates, dismissed this proceeding.

Another prosecution was instituted against the C. & E. I. Railroad for violating the long and short haul clause in the shipment of brick from Veedersburg and Brazil to Attica, Ind. In this matter the Commission was deceived as to the facts, because the C. & E. I. Railroad Company had failed to file all of its tariffs

with the Commission, and when this case was being prepared for trial it was discovered that this Company had issued a special billing rate, effective at Brazil, on brick for Attica, of which the Commission had no knowledge, and the law not requiring the Company to file its charges or tariffs, the Commission was compelled to dismiss the prosecution.

By reference to No. 74 on the informal docket, as shown in this report, will be found the particulars concerning an investigation had by the Commission in regard to the practices of the express companies in the city of Indianapolis. Growing out of the recommendations of the Commission, as indicated in these proceedings, the Attorney-General, at the request of the Commission, has employed special counsel and has instituted suits in the courts of Marion County against the American Express Company, Adams Express Company and the United States Express Company, to compel the delivery of express articles in all the cities in this State having more than 2,500 population free of charge. In addition to these proceedings for mandate, the Attorney-General has also brought an injunction suit to compel observance of the law, and has also instituted against these various companies numerous suits to collect penalties prescribed by the law for its violation. These suits are now pending and undisposed of in the courts of that county.

Soon after the Commission was organized it demanded from the railroads and express companies a list of the persons holding passes and express franks. This demand was made with a view to the prosecution of suits for penalties under the statute. The greater number of the companies refused the information. After many meetings and much negotiation an agreed case was made up against the Monon Railroad for the purpose of testing the law, it being claimed by the roads that the law does not prohibit the issuance of passes and that the whole act is invalid for many reasons. This cause was filed in the Marion Superior Court, has been argued and has been waiting decision for many months. In this connection we suggest that the law should be so amended that the question of passes and franks shall be covered specifically and not left to construction, so that the carriers, the Commission and the public will know the will of the legislature in these particulars.

Reports of Railroads.

Although the law does not require the railroads to make reports to the Commission, the greater number of the roads have, at the request of the Commission, filed reports for the year closing June 30, 1906. Instead of publishing these reports in full the Commission has tabulated therefrom certain information which is submitted herewith as follows:

Table I.	Statement of Mileage.
Table II.	Statement of Assets.
Table III.	Statement of Liabilities.
Table IV.	Receipts, Income account entire line.
Table V.	Disbursements, Income account entire line.
Table VI.	Operating Statistics, entire line.
Table VII.	Employes and Wages in Indiana.
Table VIII.	Accidents in Indiana.

In the preparation of the mileage table the reports of the companies, where an item of mileage is mentioned, have been held to control. On such subjects as the reports are silent, the report of the State Board of Tax Commissioners has been consulted. This report has also been used in obtaining the mileage of such roads as have not filed reports with the Commission. The mileage table shows 133.26 more miles of main track, branches and spurs, and 43.04 more miles of second, third and fourth main track, than is shown by the report of the State Board of Tax Commissioners. The table, however, shows 64.88 less miles of sidings and yard tracks than is shown by the tax roll. It is manifest, however, from a comparison of the reports filed with the tax roll, that what is reported to the Commission as branches and spurs have in many instances been listed for taxation as yard and siding tracks. Another reason for the discrepancy in the two reports is the fact that the tax return is made as of March 1, 1906, while the reports to the Commission are made as of June 30, 1906. The table also shows that 153.12 miles of new line have been constructed during the year ending June 30, 1906, but it is nowhere shown how much of this new mileage is included in the tax return of

March 1, 1906, or how much was constructed after that date and before June 30, 1906.

In addition to the information contained in these tables the reports furnish other facts of general interest, and of these we call attention to the following:

The roads which have made reports operate in several States of the Union. In their statements of assets and liabilities it is shown that these companies own many millions of dollars of the bonds and stocks of other railroads, also large quantities of the stocks and bonds of industrial and other enterprises. Of the latter we mention the following aggregates:

Coal companies	\$9,244,380
Stone companies	559,000
Hotel companies	412,866
Elevator companies	509,000
Warehouse companies	35,000
Stockyard companies	500,000
Exposition companies	72,256
Land companies	301,000
Lumber companies	600,000
Express companies	1,250,000
Steel and Iron companies.....	37,152,000

Of the coal company stocks and bonds so owned, about 6½ millions were issued by Indiana coal companies having mines in Indiana on the lines of road owning the stocks and bonds. The same is true as to one-half million of stone company stocks and bonds, and over \$300,000 of hotel company stocks and bonds. The greater portion of the other stocks and bonds were issued by companies of other States.

The tables prepared do not show the car equipment of the lines; however, the subject of coal transportation being one of constant trouble, inquiry and investigation, and this being the commodity of greatest tonnage moved in this State, we have prepared and submit herewith a statement concerning the coal car equipment of the lines operating in this State, having coal mines on their lines in this State, and which also initiate coal shipments from the Ohio River. The same is as follows:

TOTAL CAR EQUIPMENT AND COAL TONNAGE OF ROADS INITIATING SHIPMENTS IN INDIANA.

Names of Roads.	Tons Bituminous Coal originating on Line, in Indiana.	Per cent. of total Bituminous Coal Tonnage in State, to total Tonnage carried in State.	Coal Cars Operated by Line.	Coal Cars operated, per mile of Line, operated in Indiana.	Coal Cars operated, per mile of Line operated, all States.
B. & O. S. W.	49,836	16.66	1,919	11.34	2.07
Big Four.	1,159,330	26.01	5,578	7.25	2.81
C. & E. I.	804,977	57.44	10,217	40.38	10.75
Central Indiana.	38,293	38.53	187	1.47	1.47
Clover Leaf.	50,110	20.38	704	4.11	1.56
C., H. & D.	153,545	33.54	5,539	31.83	5.33
E. & T. H.	1,367,646	53.98	5,052	30.80	30.80
E. & I.	194,860	54.26	2	.....	.....
Monon.	186,612	12.86	1,131	1.99	1.91
Pan Handle.	1,816,388	36.22	11,028	15.79	7.72
Southern Indiana.	1,853,656	80.80	4,550	20.22	20.22
Southern.	498,784	25.69	18,617	87.00	2.47
Vandalia.	2,078,834	51.66	3,613	7.18	4.36

Forty of the forty-three roads reporting to the Commission state the value of the roads and equipment as carried in the accounts of the companies and give the value of each per mile. They also show the amount of the stocks issued and funded debts outstanding for each of the companies per mile of line. In the comparative statement which the Commission has made of these items it appears that 22 of the companies have issued bonds and stocks in excess of the value of the roads and equipment per mile of line, as the same are carried in the accounts of these companies. These excesses are, in some cases, small; in others very large; ranging from \$90 excess per mile to one, two, four, five, six, ten, eleven, twelve, thirteen, fourteen, nineteen, twenty-one, twenty-three, sixty-eight and one hundred and thirty thousand and odd hundreds of dollars per mile in excess of the value of the roads and equipment. These excesses constitute what is commonly called watered stock, or over-capitalization. Eighteen of the roads reporting show a valuation per mile of line on account of cost of road and equipment in excess of the stock and funded debts ranging from \$43 to \$36,000 per mile of line. An examination of these figures, with a purpose of finding any relation between known conditions and the paper valuation, is useless. One of the results following such over-capitalization is shown in the case of the C., H. & D., now in the hands of the receiver. This company has issued stocks and bonds to the extent of over \$130,000 per mile of line more than the cost of the road and equipment per mile of line.

In this connection it is profitable to examine the comparative cost of the different lines. For instance, the newly constructed C. I. & S. is carried in its accounts at a value of \$101,709 per mile, single track, while the P., F. W. & C., which is double tracked, and an old road, is carried at \$139,645 per mile of line, while the Michigan Central, double tracked, is carried at \$130,386 per mile of line. The Baltimore & Ohio Southwestern is capitalized at \$10,378 more per mile of line than the cost of road and equipment, while the Baltimore & Ohio & Chicago cost \$36,238 more per mile of line than the amount of its stocks and funded debt. The Chicago & Eastern Illinois is capitalized at \$19,000 per mile of line more than the cost of road and equipment. The Big Four system is capitalized at over \$5,000 per mile more than the cost of road and equipment. The Lake Shore at over \$68,000 more than cost of road and equipment. The L. & N. at over \$13,000 more than cost of road and equipment. The Pan Handle at over \$11,000 more than cost of road and equipment. The Southern Railway at over \$10,000 more than cost of road and equipment. The Southern Indiana at over \$23,000 more than cost of road and equipment. The Wabash at over \$14,000 more than cost of road and equipment.

On the other hand the Chicago, Lake Shore & Eastern is carried in its accounts at a cost per mile of line of over \$8,000 in excess of its stocks and bonds. And the Chicago, St. Louis & New Orleans, which is a part of the Illinois Central system, is carried at a valuation of \$26,000 per mile of line in excess of its stocks and bonds. And the Michigan Central is carried at a valuation of \$37,000 per mile of line in excess of its stocks and bonds.

The railroads operating in Indiana earned during the last fiscal year on account of freight and passenger traffic, lease of tracks, dividends on stocks and bonds owned, and other miscellaneous income, \$491,374,315. Of this income over \$314,000,000 was on account of freight, and over \$115,000,000 on account of passenger traffic, while \$24,000,000 was realized from other income from operation; \$6,000,000 on account of lease of tracks, and over \$20,000,000 on account of dividends and stocks and bonds owned. This income was applied to maintenance of way and structures and maintenance of equipment, conducting the transportation, gen-

eral expenses, dividends, taxes, interest on funded debts, rent of leased lines. Of the companies reporting to the Commission, twelve expended on account of these items and other disbursements more than their income amounted to. The other companies show a surplus in their earnings. The surplus of these companies out of the earnings of the last year, after paying operating expenses and fixed charges, amounts to over \$22,000,000, while the twelve companies showing a deficit paid out over \$3,000,000 in excess of their income for the year, and this was generally paid from surplus funds from other years, and in almost every instance where there is a deficit it is caused by the application of the earnings to permanent improvements, or to a loss paid out on the operation of some leased line. The companies showing a deficit in their earnings are the Central Indiana; Chicago, Cincinnati & Louisville; the Chicago & Erie; the Chicago, Indiana & Eastern; the Cincinnati, Bluffton, & Chicago; the Cincinnati, Hamilton & Dayton; the Cincinnati, Richmond & Fort Wayne; the Evansville & Indianapolis; the Grand Trunk Western; the Lake Erie & Western; the Pere Marquette, and the South Chicago & Southern.

In this connection it might be stated that there are six roads operating in this State whose total gross income from operation is less than \$3,000 per mile. These roads are as follows: Central Indiana; Chicago, Cincinnati & Louisville, Chicago, Indiana & Eastern, Cincinnati, Bluffton & Chicago, Evansville & Indianapolis and the Louisville, New Albany & Corydon.

The roads reporting to the Commission report they carried over their entire line, within and without the State, 366,049,460 tons of freight and 113,934,754 passengers. The average rate per ton per mile received for the transportation of freight ranges from 3.09 cents in the case of the Chicago, Indiana & Eastern Railway Company, which is the highest, to .53 of one cent, in the case of the Chicago & Erie, which is the lowest. The principal amount of the traffic being carried by other lines at rates between that received by the Erie and .72 received by other lines. The highest rate received per passenger per mile, transportation of passengers, is 4.54 cents in the case of the Louisville, New Albany & Corydon, while the lowest is 1.34 cents per passenger per mile received by the Grand Trunk Western, the greater number of the

roads having received between $1\frac{1}{2}$ and 2 cents per passenger per mile. The road operating in this State which received the greatest income from operation per mile of line was the Pennsylvania Company, which is over \$30,000 per mile of line. The next highest was the Lake Shore, of over \$27,000 per mile of line. The lowest was that received by the Cincinnati, Bluffton & Chicago, which is \$961 per mile of line.

The reports show that the railroads operating in this State which have reported to the Commission had in their employ during the past year, 54,333 employees, as follows:

General officers	163
Other officers	239
Office clerks	1,927
Station agents	1,438
Other station employees.....	4,354
Engineers	2,296
Firemen	2,296
Conductors	1,796
Other trainmen	4,178
Machinists	1,956
Carpenters	2,659
Other shop men.....	8,570
Section foremen	1,582
Track men	11,732
Switch and crossing tenders and watchmen.....	1,802
Telegraph operators	1,699
Other employees	5,606

The reports show that these employees were paid an aggregate of \$33,803,569.91. The highest average daily compensation paid by any line was that of \$2.27, paid by the Wabash. The lowest was \$1.16, paid by the Evansville & Indianapolis line. The roads paying more than \$2 per day were the Wabash; Vandalia; the Pennsylvania Lines; the Big Four Lines; the Michigan Central; the Nickel Plate; the Lake Shore; the G. R. & I.; the Grand Trunk; the Monon; the Chicago, Lake Shore & Eastern; the Erie, and the B. & O.

The reports submitted to the Commission show that during the last year there were killed in Indiana 342 persons and 4,313 persons injured by railroads, or in connection with the business of railroads. Of this number, 78 of the killed were trainmen. The number of trainmen killed is 7-10 of 1 per cent. of the number of

employees engaged in the train service. The number of trainmen injured is 1,402, or 13.27 per cent. of the employees engaged in train service. Ten employees were killed and 163 injured by coupling and uncoupling cars, 19 were killed and 146 injured in collisions. Seventeen were killed and 205 were injured by falling from trains and locomotives. Nine were killed and 57 injured in derailments. Two were killed and 169 injured by jumping on or off the cars. Seven were killed and 37 injured by being struck by trains.

There was a total of 27 killed and 300 injured of all classes of persons and employees on account of collisions. Of this number 104 passengers were injured. Fourteen postal clerks, baggage-men and Pullman employees were injured. Excluding collisions occurring in yard limits, all these accidents could have been prevented if there had been in force on all the lines in this State a practical system of block signaling strictly observed, as it is impossible for there to be a collision where a block system is faithfully observed.

Twenty-five persons were killed and 272 injured, all told, by falling from trains, locomotives and cars; 27 were killed and 291 injured by jumping on and off locomotives and cars. This last could be materially reduced if grand juries and prosecuting attorneys would enforce the penal laws of the State against jumping on and off cars in motion, because most of these accidents have been to people who were trespassers, there being 21 killed and 58 injured on this account. It appears that one person was killed and 30 injured by overhead obstructions. No railroad should be allowed to maintain any overhead obstruction which will either kill or maim its employees. It appears that 44 persons were killed and 135 injured at highway crossings. Of these two killed and five injured were trespassers, and 42 killed and 130 injured were not trespassers, and presumably were travelers on the public highway. By the elimination of grade crossings and the installation of certain well-known warnings and safety devices it would seem that it is possible to materially reduce this great harvest of death at highway crossings. There were 23 persons killed and 23 injured by being struck at stations, but most of these were trespassers, persons on the station grounds who had no right there.

There were 123 killed and 75 injured by being struck at other points on the track, and of these killed 122 were trespassers, presumably persons traveling on the tracks or loitering in the company's yards, where they had no business. The greatest source of injury has been to the employes in handling tools and machinery. It appears that two employes were killed and 835 injured in handling tools and machinery, and that one person was killed and 342 injured in handling railway company supplies, and, strange to say, that 61 employes were injured by getting on and off locomotives and cars while at rest.

It also appears, in the reports filed, that the lines operating in this State operate within and without the State over 38,000 miles of line, and that during the year the empty car mileage over these lines was 1,133,709,607 miles. These figures are beyond the capacity of the ordinary individual to appreciate or comprehend. The condition produced, as a result of this enormous loss of car space and energy expended in making the movement, is the most troublesome encountered in the transportation problem, and the most constant cause of anxiety and expense to the carriers. A few calculations will demonstrate that if these cars had been moved under load the ton mileage would have been increased at least one-third and the business of the country correspondingly relieved, and the earnings of these companies increased over a hundred million dollars.

The data furnished by the tables submitted herewith furnish much for the candid consideration of all persons interested in the organization and management of railroads.

Financial Statement.

In addition to the salaries fixed by law, we call attention to the expenses of the Commission, which are set forth in detail elsewhere in this report. The expenses of the Commission, in addition to salaries, have been \$3,985.23, and the collections made by the Commission have been \$2,081.56, leaving a balance of expenses, paid out of the State treasury of only \$903.67, and of this sum \$394.57 was paid for office furniture and filing cases, which will not accrue hereafter. The Assembly appropriated \$3,000 for assistance to the Attorney-General in connection with the duties of the Commission. Of this sum only \$275 has been expended, and that sum is a part of the total expense above noted.

Recommendations.

In addition to what has been said in other portions of this report, we desire to call your attention to the following recommendations concerning the law creating the Commission and concerning other laws of the State regulating railroads and the need of additional and new legislation upon these subjects, as the same have been brought to the attention of the Commission in the discharge of its official duties.

1. The act should be so amended as to empower one of the Commissioners, upon the order of the Commission, to hold a hearing or conduct an investigation concerning any matter within the jurisdiction of the Commission and report the evidence to the Commission for its consideration and decision. Such an amendment would expedite the hearing of cases and facilitate all investigations and very largely decrease the expenses of the Commission.

2. Where formal notice is required, it should be limited to five days instead of twenty, as now provided. The delay is unnecessary, as the railroad companies all have an abundance of employes and counsel and have at their command at all times all the facts usually required for the consideration of any complaint. The fact that twenty days' notice is now required is of itself a sufficient reason to prevent matters from coming before the Commission, because the time required to bring the railway company before the Commission is so great that the occasion for the relief would be passed before the service would be complete.

3. The provisions of Section 6 of the act providing for appeals to the Appellate Court should be amended so as to dispense with the appeal, and there should be substituted in lieu thereof the right of the party aggrieved to bring an original action in some court of competent jurisdiction to review or set aside the order of the Commission. While the provision for an appeal stands, the Commission is required in the most insignificant complaint to proceed with all the formality of trial in a matter about which it is already informed. The delay is unending, the expense to

the State and to the parties is great, and the conclusion is unsatisfactory, viewed in the light of a legal proceeding. This provision, and the expenses incident to such a hearing, deters parties having just but small matters of complaint from instituting or prosecuting such expensive and formal proceedings. The Commission should be given power to act upon its own investigation, after giving the carrier an opportunity to be heard. As the law now is the Commission can make no investigation of its own or consider any matter except such as is embodied in the formal record, for appeal to the Appellate Court. If the conclusion of the Commission is not satisfactory, its order can be questioned in a court where there can be a judicial inquiry from which an appeal may be taken. Such is the practice in most of the States of the Union and such a provision was placed in the Hepburn bill, recently enacted to regulate interstate commerce.

4. The present law does not require the carriers to file their tariffs and schedules of rates with the Commission. The greater number of the carriers have voluntarily, upon request of the Commission, filed parts of their schedules; others have refused and have filed none. The law should be amended so as to require all State rates to be filed with the Commission before going into effect and the filing of any interstate rate only upon request of the Commission for its information. The fact that the carriers are not required by law to file rates led the Commission into a suit against the carriers for violating the law. It afterwards developed that there was a rate out in accordance with the charge made, but of which the Commission had no notice or knowledge. There can be no successful supervision of rates or tariffs without the rates being on file. The subject of rates is a matter of daily investigation by the Commission concerning traffic of different kinds and in various portions of the State, and it would be impossible to properly perform this duty without the tariffs being available at all times. The law should be further amended in providing that the Commission and all courts of this State having to do with the review of its proceedings should take knowledge without proof of all rates in force in this State and on file with the Commission, also of all statistical information published by the authority of the Interstate Commerce Commission, as well as the facts con-

tained in the reports of the Interstate Commerce Commission and the reports filed with the Commission by the railroads. The carriers should also be required to keep all their tariffs on file at all their stations, subject to public inspection.

5. A great many applications by steam and interurban roads have been made to the Commission to control the manner of their crossing, and to do other things of general interest in connection with such lines. No record, except in one instance, has been made of these cases. The parties were informed that the Commission was without jurisdiction. No reason can be suggested why the Commission should have power to control the manner of two steam roads crossing each other, and should not have power to direct in the matter of the crossing of an interurban and steam roads. It is certain that there should be legislation to correct this omission. With reference to bringing interurban roads under the general powers of the Commission, the constitutionality of the Commission act has been attacked because they were excluded. If it is necessary to extend our jurisdiction to these roads in order that the act may be valid, or if it is best for any reason so to extend our powers, we can see no objection to so amending the law.

6. The act of March 9, 1903, concerning excess baggage, has been held by the Superior Court of Marion County, at the suit of the Commission, to not control the prices to be charged for excess baggage carried by commercial travelers, i. e., the court held that the samples carried by commercial travelers are not excess baggage within the meaning of that law. The Commission thoroughly investigated the circumstances under which this law was enacted and determined that the same was enacted at the request of the commercial travelers with the intention of having it control charges for carrying commercial travelers' samples as excess baggage, but the law is unquestionably defective. At least seventy-five per cent. of the excess baggage carried by the railroads in this State consists of commercial travelers' samples and the carriers, with but few exceptions, refuse to observe this law. An act upon the subject should be passed which would be fair and just not only to the carriers, but to the large body of men who in this manner carry on the commerce of the State. As the law now is the carriers may properly at any time refuse to carry com-

mercial samples as baggage at any price. If they should do this, the business of the commercial travelers would be destroyed.

7. It is contended by some of the railroad companies that the present law does not compel lines entering the same city or town, and having physical connection, to interchange business or switch cars from one line to the other, and in many cases they refuse so to do, to the great damage and annoyance of the public having need for this service; in other cases, that the railroads entering the same city can not be compelled to make physical connection and interchange business. In other cases it is contended that the Commission has no power to compel railroads to build industrial or business sidings or switches for the accommodation of the business on their lines. Upon these subjects the act is not definite or plain, and we suggest that the same should be amended so as to invest this authority in the Commission and to require this duty of the carriers by plain and unmistakable terms. No subject has been of such constant consideration by and trouble to the Commission as this one. The authority should be plainly given or denied. The duty should be enjoined by the law or denied by law so that the vast interests of the State, as well as the carriers, may know the will of the lawmaking body upon this important subject. When the law is made clear, the greater portion of the trouble in its enforcement will be obviated.

8. As the law now is the Commission is powerless to compel any railroad crossing to be interlocked. This can be done only by the application of the roads in interest no matter how urgent the need. The law should be amended giving the Commission authority on its own motion, after notice to the companies, to require any such crossing to be interlocked, and require all crossings in the State to be interlocked within a certain reasonable time after the passage of the law, the power being vested in the Commission to determine which crossing shall be first protected.

In this connection it is necessary to call attention to the fact that the Commission has formally adopted the policy of the separation of grades at railroad crossings whenever it is reasonably practicable so to do. It is the testimony of expert railroad men before the Commission that interlocking devices do more to expedite the movement of trains than to prevent accidents and that

real security at crossings is accomplished only by the separation of grades. In Massachusetts, and other States, where legislation is advanced in this regard, no railroad or street railway can be constructed across another railroad at the same level without the consent of the Railroad Commission; nor can any railroad, without the consent of the Railroad Commission and County Commissioners, cross any public highway at the same level. These statutes also provide for the separation of such grades after the railroads have been constructed and are in operation. Therefore, we beg leave, in view of the many fatalities, to call attention to these laws. It costs from seventy-five to one hundred thousand dollars to elevate the grade of one railroad crossing another over level ground, and while it is not practicable to separate at one time the grades at all railroad and highway crossings in this State, the legislature should address itself to the subject of a substantial beginning, looking forward to and tending to the final separation of all railroad and rail and highway crossings in this State.

9. As the law now is the Commission may investigate any physical defect in the railroad and report its findings and recommendations to the Governor and the railroad company, and there its authority ends. No matter how serious the defect may be, the Commission and the State is powerless to enforce any corrections. In those States of the Union where railroad commissions have been of the greatest value, they have been vested with the fullest authority over the physical conditions of the property, with power to order corrections and enforce the order. This necessitates the inspection by competent parties. We recommend that the authority of the Commission be largely extended along this line and that it be given authority to employ inspectors to examine the properties and after notice to adjudge defects and order their correction, and authority to enforce the order by appropriate legal proceedings. We have discovered and reported serious defects, but in many instances no attention is given to the order or recommendation of the Commission.

10. As the law now is the Commission is not given any direct authority to enforce its own orders or the laws of the State, although it is made its duty to see that the laws of the State concerning railroads are obeyed. We recommend that the law be so

amended as to authorize the Commission in its name as such to institute in any court of the State having proper jurisdiction any suit for injunction, mandate or other appropriate action for the purpose of enforcing its order and for the purpose of enforcing an observance of the laws of the State concerning railroads, and we further recommend that all suits for penalties under the act be instituted in the name of the Commission and that it may employ an attorney for the purpose of prosecuting all such proceedings in the courts of this State as may be necessary under the laws of the State, and that it be authorized to employ counsel for the purpose of investigating and conducting before the Commission any inquiry of an ex parte nature which it is the duty of the Commission to decide.

11. As the law now is the carriers subject to the law are not required to make any report to the Commission. The law should be so amended as to require that parties subject to the act should file an annual report with the Commission upon such form and to contain such facts as the Commission may prescribe.

12. A law should be enacted upon the subject of safety appliances to conform as nearly as may be to the federal law upon that subject and to apply to cars used in State traffic, the use of which in interstate traffic would subject the carrier to severe penalties. No argument can persuade a reasonable person that a car that was not safe to transport traffic from New Albany to Louisville would be safe to carry the same traffic from New Albany to South Bend. In addition to such a law, the Commission should be empowered to appoint inspectors to enforce the law. These inspectors should be carried by the railroads free of charge upon photographic commissions issued by the Commission.

13. A law should be enacted prescribing the manner in which depots, depot grounds and cars used in the passenger service should be maintained with reference to light, heat, sanitation and ventilation, and an inspection thereof should be prescribed and enforced. Authority should be invested in the Commission, in a proper case, to require the construction and maintenance of proper freight and passenger depot facilities where the carrier fails to provide the same.

14. A law should be enacted upon the subject of car service, car

distribution and the movement of traffic. The greatest problem confronting the carriers and shippers is the rules which shall govern car service and the distribution of cars between shippers and delays in the movement of traffic after being loaded and at terminal points after arrival. We believe that car service rules should be declared by law and penalties provided for their violation. A law will be better observed than any rules of the carriers or of the Commission. The act should prescribe rules for the distribution of equipment upon some fair and equitable basis and with uniformity, and provide for a record thereof at each station, available to the shipper and to the Commission. Our investigations show that no two roads have the same rule for the distribution of equipment and that many roads have no rule at all. It is practicable to declare by law what the rule shall be and to require its observance by the carriers. A fair, just and definite act upon these subjects will do much to obviate friction and to facilitate the movement of cars and traffic.

15. The long and short haul provisions should be amended so as to permit the carrier, having the longer route between any two common points, to meet the short line rate between such points, without application to the Commission, in cases only where there is an actual, bona fide competition between the carriers for the business between such points.

16. The Commission does not think it advisable that it be given authority to initiate rates generally. The Commission is, however, of the opinion that the law should be so amended as to require the Commission to investigate and keep itself advised as to all rates prevailing in the State at all times, and whenever the Commission becomes convinced that any class of rates, or the rates on any particular commodity, or the rates on any particular line or lines of railroad, should be revised, altered, or otherwise modified, then the Commission shall fix a time for a hearing upon the subject of such rates, and notify the carriers interested to appear and be heard upon the subject. After the hearing the Commission shall determine the subject and make such recommendations to the carriers as it may deem just and proper. If the carrier shall not comply with the recommendations of the Commission within thirty days, the Commission may file a bill in equity in

the Appellate Court to require the observance of the suggested rates. This court should be given original jurisdiction to try the case, and its findings of fact should be final, but an appeal should be allowed to the Supreme Court upon questions of law only, to be stated by the Appellate Court at the request of the parties.

17. In view of the fact that three hundred and forty-two persons were killed in this State by railroads during the last year, we recommend that the Commission be given authority, and that it be made its duty to investigate the cause of any accident on any railroad in this State which results in the loss of life, and such other accidents as, in its judgment, should require investigation. The railroads should be required to give to the Commission notice of every accident which may occur and be attended with the loss of life, and they should be required to give this notice within five days after the accident occurs. And the railroad company should be required to furnish the Commission all the information required by it concerning the cause of any such accident. Laws of this character have been in force in many States of the Union for many years, and we are led to believe that they are of great value and recommend a substantial change in the law in the particulars above noted.

18. Although the Commission has determined that a carrier may rightfully carry coal for manufacturing and steaming purposes at a less rate than it carries like coal for domestic consumption, and that so to do is not unjust discrimination, yet this has not been confirmed by any court in this State, nor does our statute in turn so provide. Therefore, we suggest that, on account of the great importance of this question, the authority so to do should be plainly given in the law so that this valuable privilege will be certainly and clearly secured to the carriers and the thousands of factories in this State which could not survive without it.

19. The present law vests authority in the Commission to supervise the crossings of railroads in process of construction, but its provisions in that particular are so indefinite and uncertain that the Commission, and those persons who have had occasion to consult it upon the subject, have not been able to come to any satis-

factory conclusion as to the division of authority as between the Commission under the law and the circuit courts under other laws. We, therefore, recommend that the law be so amended as to provide: (1) That no two railroads shall cross each other in this State without the approval of the Commission. (2) That the Commission be given authority to determine whether the crossing shall be at grade, over or under grade, and to determine as between the companies the division of expenses for making the crossing. (3) That the Commission be given authority to fix the damages to be paid by the junior road for crossing rights, and by its order and decree grant the crossing privilege whereupon the construction may commence. If either road is dissatisfied with the damages assessed, such dissatisfied party should be allowed to file its petition in the circuit court of the county under the statutes concerning the exercise of the right of eminent domain, where the single question of the amount of damages may be determined upon the terms of crossing as fixed by the Commission, which terms shall not be otherwise subject to review in such proceeding. The right to review such action of the Commission in its entirety would exist under a law such as is suggested in paragraph 3 of these recommendations.

20. The want of authority in the Commission to deal with a situation such as now confronts it, the coal operators and coal consumers concerning the movement of coal from the Indiana fields, as detailed elsewhere, in this report, and which, at this time, has resulted in an absolute cessation of traffic via the Big Four Line, is so striking, so disastrous and so overwhelming in its results as to forbid the necessity of suggesting remedial or specific legislation on the subject. The Commission should be given authority, in such situations, after notice to the companies, to issue such temporary and emergency orders concerning rates, routes of shipment and the movement of traffic as may be necessary to relieve the situation, and with full power and authority to relieve the carriers from damages on account of the failure to move other traffic, the movement of which is suspended by the Commission's order. In case the carriers fail to comply with the Commission's order in such matter, the Commission should be authorized to apply to some court having jurisdiction to appoint an

operating receiver, whose duty it would be to comply with the orders of the Commission under the direction and approval of the court.

21. Complaints have come to the Commission concerning charges imposed by the Pullman Company for services rendered by it. After considering the law, the Commission determined that the Pullman Company is not subject to its jurisdiction, and we respectfully recommend that the law be so amended as to bring sleeping car companies within the jurisdiction of the Commission.

We submit herewith as a part of this report the following:

Appendix I.—Formal Proceedings.

Appendix II.—Informal Proceedings.

Appendix III.—Reports of Railways.

Appendix IV.—Average Class Rates in Indiana.

Appendix V.—Law Creating the Commission.

Appendix VI.—Rules of Procedure.

Appendix VII.—Financial Statement.

Respectfully submitted,

UNION B. HUNT,

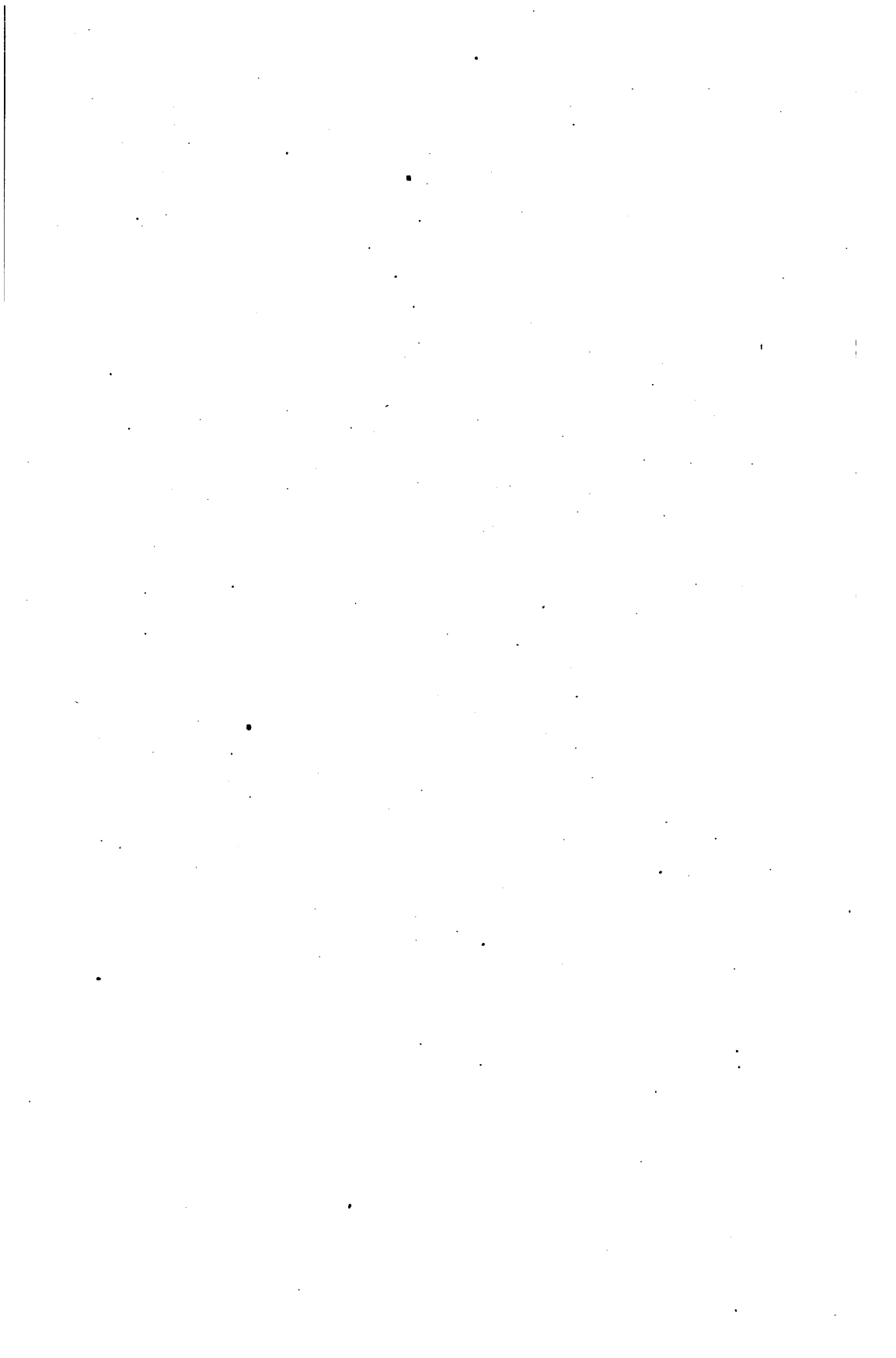
C. V. McADAMS,

W. J. WOOD,

Commissioners.

APPENDIX I.

Formal Proceedings.



Formal Proceedings.

No. 1.—*Chicago, Indianapolis & Louisville Railway Company v. Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company and Grand Trunk Western Railway Company.*

E. C. Field, for the Monon.

Geo. E. Ross, for the Pan Handle.

Anderson, Parker & Craybill, for the Grand Trunk.

1. This was a petition by the Monon to compel the construction of one interlocking machine to protect the crossings of its line over the Pan Handle and Grand Trunk in Lake County.

2. The Commission ordered the construction of two machines, one for each crossing.

3. The construction, maintenance and operation of the machine at the Pan Handle crossing was assigned to that company, and has been constructed and was approved and put in operation July 30, 1906.

4. The Grand Trunk brought a suit in the Lake Circuit Court against the Commission to set aside the order as to that company. That court decided against the company and approved the order of the Commission. The cause was appealed to the Supreme Court, and on October 25, 1906, that court transferred the cause to the Appellate Court, and it is now pending there.

5. On September 5, 1906, after notice to the parties, the Commission assigned the construction, maintenance and operation of the machine for the Grand Trunk crossing to the Monon Company, and approved plans therefor, and the same is now being constructed.

6. The facts appearing in the cause and the conclusions of the Commission appear in the opinions which follow:

McAdams, Commissioner.—In Lake County, in this State, at Maynard Station, near the city of Hammond, the petitioner's railroad (Monon) runs in a northerly direction and consists of a single track. The respondent, Grand Trunk Western's railroad, at that point, runs in a southeast direction and consists of two tracks.

The respondent, the Pittsburg, Cincinnati, Chicago & St. Louis Railway Company's railroad (Pan Handle), at such point, also runs in a southeast direction but at a different angle and consists of two tracks. Each of these roads crosses the others at such point, and in crossing form a triangle, two sides of which each approximate two thousand feet in length, and are formed by the Grand Trunk tracks and the Pan Handle tracks. The other side of the angle is about fourteen hundred feet long, and is formed by the Monon track. The crossing of the Pan Handle and the Grand Trunk, at one of the angles, is now protected by a mechanical interlocking plant, and is not involved in this proceeding. The only protection now provided for the other crossings are gates and watchmen. The petitioner runs, approximately, twenty trains over these crossings each twenty-four hours, and the respondent companies each run, approximately, thirty trains over their crossings every twenty-four hours. As provided by law, each of these trains must now stop before running either of these crossings. According to the proof, it now costs \$780 per annum to maintain the watchman at the Grand Trunk crossing, and \$900 per annum to maintain the watchman at the Pan Handle crossing. These crossings are in the open country and on level ground, and the view is not obstructed in any direction within signal distance of interlocking apparatus, as now usually installed, excepting by a few trees growing upon the lands enclosed by the tracks. The companies do not own the lands enclosed within the angle or any of the other lands contiguous to the crossings other than the ordinary right of way. The lands along the tracks of each of the roads and within the angle are controlled by private parties and are subject to their disposition and improvement without consulting the companies. The parties all agree that some modern device should be installed at this point to protect these crossings, and that the system now in use is antiquated, insufficient and insecure, and interferes with the traffic of the companies. In this view the Commission heartily concurs and determines that such crossings should be protected in some appropriate and modern manner.

The Monon contends that both crossings should be protected by one plant, located on its line, midway between and about seven hundred feet from each crossing. It is conceded that if one

plant is used to control both crossings that it would have to be an electric power machine, and it would cost from seventeen to nineteen thousand dollars to install such a plant, and it would cost, annually, 10 per cent. for the maintenance, and that the annual cost of operation would be about \$2,300. On the other hand, it is claimed by the Grand Trunk and Pan Handle roads that it is not advisable to protect both crossings with one plant, because of the difficulty in seeing approaching trains on their roads in time of fogs, which prevail in that vicinity, and on account of the liability of the contiguous property to be improved with structures which would obscure the view of the towerman in signalling trains, and for the reason that the crossing can be better protected by a plant at each crossing where the operator will have a clear vision over all the tracks which he controls. It appears in the proof that a mechanical interlocking plant will be sufficient, if one is installed at each crossing, and that such plant at the Pan Handle crossing will cost about \$7,000 and the annual expense of maintenance will be about \$700, and that the annual expense of operation would be about \$1,600; and that a mechanical plant can be installed at the Grand Trunk crossing for about \$5,000, and that the annual expense of maintenance would be about \$500 and the annual expense of operation would be about \$1,600. It appears from this data that while the cost of one power machine, to protect both crossings, would be approximately \$7,500 more than the cost of two mechanical plants, one for each crossing, and that the annual cost of maintenance of one power machine would be \$750 in excess of the annual cost of maintaining two mechanical machines, yet it appears that the annual cost of operating two mechanical machines would be about \$900 more than the annual cost of operating one power machine. It is contended that the use of one power machine to control both crossings is the better economy, although the initial cost is greater. This is possibly true. If the lesser price of \$17,000 is used as a basis of calculation, it appears that in a period of years the extra cost of installation and maintenance will be taken care of by the lesser expense of operation. However this may be, and it is a question that can not be solved with certainty, it does not appeal to the Commission as against the other facts which are subject to absolute determination. None

of these companies should be satisfied with less than the best. The items of expense of installation, maintenance and operation, in the judgment of the Commission must go down before the factor of safety to the roads and the public wherever the same are in conflict. It is beyond controversy that if two machines are installed, one to control each crossing, they will afford complete protection to the roads and the public as well, not only for the present, but for all future time, as the same may be constructed at the crossings and on the lands of the companies and in such manner as to bring into view all the present tracks and such as may be hereafter laid down within the present limits of the roads' ownership. On the other hand if a power machine is installed, midway between the crossings, it appears that there is doubt as to its efficiency at times, under certain conditions, which prevail in the locality. And an insurmountable objection to such solution, as it appears to the Commission, is the fact that the contiguous property, in all directions, over which the vision of the towerman must pass, to safely, properly and satisfactorily perform his duty, is not subject to the control or supervision of the railroad companies, but is subject to the control and disposition of private parties. They may plant it in groves, turn it into parks, plat a village or build a city or construct factories or business blocks, along the lines of railroad, any one of which would destroy the usefulness of a power machine so erected, in so far as it was intended to properly control the Pan Handle and Grand Trunk tracks.

The only answer made to this view of the case is the use of enunciators on these roads, but the Commission is satisfied that such device would not give to these roads that consideration, protection and safety, which their interests as through trunk lines, with the greater wheelage, demands at the hands of the Commission, and the Commission therefore determines that it is the better policy to install a separate machine for each crossing.

This being the first case to come before the Commission under this statute, it becomes important to determine upon what basis to divide the expenses of installation, maintenance and operation of the interlocking plants. These roads having been constructed prior to the Act of March 8, 1897 (Burns' R. S. 1901, §§5158a to 5158h), this proceeding is not controlled by §4 of that act,

which places the entire expense upon the junior road. Therefore some basis, founded upon reason, must be declared by the Commission upon which these expenses should be divided. The basis used should be founded upon fixed facts and predicated upon factors incident to the plant, if otherwise just and reasonable, which are not subject to change or modification, without at the same time, likewise and in like proportion changing the expense account. A basis for dividing the expense of construction, maintenance and operation, especially the latter, which is predicated upon premises subject to constant change and variation, would be unsatisfactory to the Commission, and would be a source of possible dispute between the roads. A basis of the first class, and one satisfactory to the Commission and just to the roads, is found in the physical facts surrounding the plant. A basis of the second class, which is not satisfactory to the Commission, for the reasons stated, is found in the wheelage of the companies, or trains passing over the crossing. The protecting device is constructed for the purpose of facilitating the dispatch of trains, to protect them in transit and to protect the public who use the cars for travel and to transport their goods and wares. Within the limits of interlocking distance the device is intended to furnish protection to each track, switch, Y or cross-over track of each company included in the plant. A certain number of levers, with certain fixed functions, all of which are subject to actual determination, are necessary to furnish the protection required. When a certain number of tracks, switches, Ys and cross-over tracks are to be embraced within the interlocking plant, then the number of levers and their functions is subject to absolute and ready determination. If the division is made upon a wheelage or train basis, no such certainty or continuity of conditions is obtainable. There may be ten trains per day this year and 50 trains per day next year. It appears to the Commission that it is not a question of present or future use, but a question of capacity for use as to main tracks and a question of convenience to the road which has seen fit to bring switches, Ys and cross-over tracks within the interlocking territory. Therefore, the Commission, as now advised, determines that the proper basis for the division of these expenses is the service rendered to each road for its protection, and that such

service shall be determined by the levers used and their functions in securing such control and protection. Aside from certain contracts, which we will notice presently, there is no serious contention that this is not the proper rule as to installation and maintenance, but a different rule is insisted upon as to the expenses of operation in that the Pan Handle claims that such expense should be divided equally between the roads whose crossing or crossings are interlocked, claiming that the expense of operation does not vary with the increase or decrease of the number of levers or, at least, not in the same proportion.

The Commission is not impressed with this contention. In a certain sense that part of the plant on each road is the property of the road. It certainly owns a portion of the plant equal to its proportion of the expense of construction. It should maintain and keep in repair its portion of the plant for that reason, and so much is conceded. The levermen, the lamp men, the lamps, the oil, the waste, the fuel, the furniture, and all needed supplies, perform duties and supply needs in the operation of the plant and for the benefit of the roads in the same proportion as the plant furnishes them protection. Why should one road pay for one-half the oil supply for the signal lamps if only one-third of them are out for its protection and two-thirds out for the protection of the other road? Why should one road pay one-half of the charges for levermen, who may operate sixty levers at various times during the day, twenty of which control its road and forty of which control the other road? Why should one road pay one-half of the expense of looking after and caring for and keeping in repair a plant of which it only owns and uses one-third?

The wheelage may, and probably does, affect this question, but as already stated a basis of that kind is so changeable from day to day and year to year that it is an unsatisfactory basis upon which to predicate a rule for present or future conduct, and the Commission therefore declines, as now advised, to permit it to have controlling influence in this case, and therefore holds that the proper basis for the division of operating expenses, unless there be special reasons in the particular case, should be the same as that imposed for construction and maintenance.

The Pan Handle and the Grand Trunk are the senior roads and

were in operation at the time the Monon was constructed at this point, which was in the year 1882. Soon after the crossing of the Pan Handle a contract was entered into between the Pittsburg, Cincinnati & St. Louis Railway Company, operating the Columbus, Chicago & Indiana Central Railway, under orders of the Federal Court, and the Louisville, New Albany & Chicago Railroad Company. By the terms of this contract these companies agreed to share equally in the maintenance of the crossing, but the contract does not provide for the expense of the original construction. The companies also agree to share equally in the cost of installing, maintaining and operating such crossing signals as may be agreed upon between them.

At some time, the particular day being in dispute, but before what is now the Monon Railroad crossed what is now the Grand Trunk Western Railroad, a contract was entered into between the Chicago & Grand Trunk Railway Company and the Chicago & Indianapolis Air Line Railway Company. In this contract we find the following stipulations:

“And the said party of the second part (Monon), in consideration of the right to construct and operate the said Chicago & Indianapolis Air Line Railway across the right of way of said party of the first part (Grand Trunk) as above granted and set forth, agree to construct, put in and maintain good and sufficient frogs and crossings at the points where the track of the said Chicago & Indianapolis Air Line Railway crosses the track of the Chicago & Grand Trunk Railway as aforesaid, and should the party of the first part at any time hereafter construct and lay down an additional track or tracks at the said point of intersection, the party of the second part agrees in like manner to construct, put in and maintain sufficient frogs and crossings to enable the party of the first part to cross the track or tracks of said second party's railway. All of which crossing shall be put in at and upon the grade of the railway of the party of the first part and shall be done in a good and substantial manner, so that the party of the first part shall be able to operate its road at that point with convenience and safety, and that said crossing shall be so maintained and

kept in repair by the party of the second part at its individual expense forever. And the party of the second part further agrees that it will, at said point of intersection, erect, put up and forever maintain good and substantial semaphores or other signals and provide the requisite watchmen to take charge of and operate the same, all of which shall be at the individual expense of said party of the second part."

It is contended by the Pan Handle that the contract as above mentioned, must control the division of expenses of the operation of any protecting device which the Commission shall order in this proceeding for its crossing. It is contended by the Grand Trunk that the second contract, from which we have quoted, must control the division of the expense of installation, maintenance and operation of any protecting device which the Commission shall order in this proceeding for its crossing, and that, by the terms of the contract, all of such expenses shall be sustained by the Monon. The Monon contends that as these contracts were not executed by the companies now before the Commission and which now own and operate these roads, that, therefore, they are not of controlling influence in the cause. It appears from the statements of counsel and available railroad history that the present owners of these roads have acquired their respective titles, either by consolidation or foreclosure and sale of the properties of the former companies which owned the respective properties at the time these agreements were made. We are not informed as to the steps taken in the proceeding to foreclose and sell, looking to the transfer of these contract rights and obligations with connecting roads. We take it that the same rights and liabilities will belong and attach to any company created by consolidation as were possessed by and devolved upon the constituent companies.

Railway Co. v. Boney, 117 Ind. 501;
Cashman v. Brownlee, 128 Ind. 266.

From the evidence it appears that the companies now before the Commission have been and are now observing these contracts and are maintaining the crossings and present signal systems and paying the expenses thereof in accordance with the terms of these

agreements and have been so acting ever since the present companies came into existence and possession of the properties. It is a well known principle of law that an interpretation placed upon a contract by each of the parties thereto is a safe guide for those to follow who are called upon to enforce its provisions and the parties can not justly complain if the tribunal arrives at a conclusion in keeping with their acts and interpretation.

Rousch v. Rousch, 154 Ind. 562;

Wilson v. Carrico, 140 Ind. 533;

Childers v. First Nat'l Bank, 147 Ind. 430.

It is also contended that these contracts are valid as between these parties for the reason that they adhere to the property and pass with its title and that the purchaser at the sale was bound to know the physical fact of the roads crossing each other, and having such knowledge the law imposed the duty on the purchaser of tracing out the crossing rights acquired by the junior road at the time of construction and is bound thereby as fixed by the original owner. This contention has much to commend it, however. On account of the conclusion arrived at by the Commission it is unnecessary to determine the validity of these contracts upon that question. For the reason already given it is the opinion of the Commission that these contracts are valid as between the parties under the present conditions, but the Commission is also of the opinion that they are not effective to control this proceeding. The Commission is unable to concur in the views of the Grand Trunk Western as to its obligation to share in the expense of constructing and maintaining such protecting device as the Commission shall order for its crossing and likewise it fails to agree with both of the respondents as to their contention that these contracts regulate the expense of operating any device which the Commission may order. So far as these contracts, if in force, regulate the expense of constructing and maintaining the crossings as designated in the contracts it is the opinion of the Commission that they will remain unaffected and unimpaired by this proceeding. The Commission does not consider that the construction of an interlocking device is the installation of a crossing within the meaning of these contracts. A railroad crossing and an interlocking

plant to control the operation of trains at such crossing are entirely different structures, serving entirely different purposes. A train may, and many thousands of trains have, run this crossing without an interlocking device being in use. If this crossing is to be abandoned or supplanted only by an interlocking plant, such as the Commission may order, we apprehend that the traffic on these lines would cease at once. A crossing, as fixed by this contract, is wholly within the joint right-of-way of the companies and is constructed to afford passage for the trains of the respective roads and not a single rail, frog or tie will be disturbed by the installation of an interlocking device. The interlocking device is constructed for the purpose of signalling the approaching trains and indicating to them the crossing privileges as they respectively arrive at the crossing, and in this particular is wholly separate and distinct from and is not connected with the tracks at the crossing now in use, but is in addition thereto and serves an entirely different purpose. In addition to the signals an interlocking device also includes a derail in each track, put in at a point far removed from the crossing, as contemplated by this contract, and placed there, not for the purpose of affording facilities for trains to cross, but to prevent their crossing if need be. This separate and distinct purpose attaching to a crossing and means for its protection is clearly recognized in this contract as above set forth, showing that each of these matters received separate consideration by the parties at the time. The Commission does not consider the language in such contract, which requires the crossing to be so constructed that the Grand Trunk "shall be able to operate its road at that point with convenience and safety" to include or control anything but the crossing as here defined, and that the language used has its full force and effect when applied to the crossing as distinguished from the signalling and operating device provided for in the contract.

It seems to the Commission that the crossing is a part of the corpus or body of the railroad system, necessary, immovable, stationary, and in charge of the track men, while an interlocking apparatus may be dispensed with entirely, and when used is nothing more than a part of the operating equipment and of no value unless controlled and in motion and is under the care of a different

department of the company. Such being our present views we are compelled to hold that this contract does not affect the question. This is not a proceeding to establish a crossing or repair one; it is a proceeding to protect the crossing now established and secure safety to life and property while being transferred over the same.

The Pan Handle's contract secures to it an equal division of the expenses of watching the present crossing, which costs annually \$900, and the Grand Trunk's contract requires the Monon to pay all the present watching expenses at its crossing, which amounts to \$780 per annum, and they claim that these sums, under such contracts, should be arbitrarily charged, in the same manner, to the Monon and Pan Handle and deducted from the expense of operating the interlocking plants before any division is made of what would be the proper basis if there were no contracts. In this view the Commission can not concur, as a matter of law. At the time these contracts were entered into the only law upon the subject of railroad crossings, then in force in this State, which affects this question, was the criminal statute, prohibiting the running of railroad crossings by trains without stopping. There was then no law authorizing the use of interlocking devices at crossings. True one could have been established, but trains would have been compelled to stop at the crossing until the law was enacted providing that at crossings so protected trains might run through without stopping. We do not believe that an interlocking device, serving the purpose for which they are now used, can be held to be within the terms of the Grand Trunk's or Pan Handle's contracts as then written. It is not just to insist that a device now to be installed and established is within the terms of a contract made at a time when its installation and use, as now contemplated, would have been a violation of the criminal laws of the State. The device now to be installed is forced upon the parties by operation of law. The legislature, exercising its police power, has seen fit, under certain conditions, to require such device to be installed for the protection of persons and property and it is not permissible for the parties to control or fix this liability by private contracts, made before the law was enacted. To so hold does not impair the obligations of any contract within the meaning of the inhibition of the constitution as contended by the respond-

ents, neither does it deprive any one of their property without due process of law as guaranteed by the 14th amendment to the Federal constitution. We find justification for the enactment of the statute under which this proceeding is brought in the fact that it operates upon public service corporations, which are the creatures of the legislative will, and, as such, are subject to the police power of the legislature, and, also, in the fact that it is the highest duty of the legislature to enact all needful laws having for their purpose the preservation of the health, morals and safety of the public. This police power vested in the people, and finding expression through the law-making body, is one of the highest and most sacred rights retained by the people and reserved to the States when the organic law was enacted. By it, when properly exercised in proper cases, the prohibitions of the constitution, which are invoked in this case, must go down. This power is a continuing one. It may be exercised today to meet the requirements of the times and next year the enactment may be repealed or modified, or may be re-enacted in a different form, as changing circumstances, inventions and necessities may require to preserve the health, morals or safety of the public. Parties who contract concerning matters within the regulative police power of the State assume the risk of having run counter to what may subsequently prove to be the legislative will, and when such is determined to be the case their agreements must fall before what the legislature, in its discretion, has determined to be for the benefit and security of the whole people.

It has always been accepted by the courts and administrative bodies charged with the enforcement of the law as their highest duty to uphold and enforce any valid contract entered into before the enactment of a law which is in conflict with the contract and to hold the law inferior to the contract as being within the constitutional prohibition against legislation which will impair contract obligations.

So, also, it has been their highest duty to see that no person's property is taken without due process of law as provided in the fourteenth amendment. There is no question but that the action of the Commission in the installation of an interlocking device at these crossings will overthrow the provisions of these contracts, in

so far as they provide for signalling apparatus and watching arrangements now in use at these crossings, and that the property now in use for those purposes will cease to be of value or use at these crossings. These arrangements are to be superseded by a device to be installed, under the authority and direction of the State exercising its legislative and administrative authority through the Commission, for the purpose of protecting the lives of its citizens and the servants of the railroads in the use of these crossings and for the purpose of furnishing greater security to property and facilitating the service of the carriers in performing their duty to the public. These purposes are all within the regulative police power of the State, and their exercise can not be controlled or abridged by the constitutional provisions relied upon by the respondents, or modified, or their exercise, by the Commission under the law, controlled by private contract, entered into before the law was enacted.

Barbier v. Connolly, 113 U. S. 27;
 Soon Hing v. Crowley, 113 U. S. 703;
 Budd v. N. Y., 143 U. S. 517;
 Mugler v. Kansas, 123 U. S. 663;
 New York v. Bristol, 151 U. S. 556;
 Chicago R. R. v. Nebraska, 170 U. S. 57;
 State v. Woodward, 89 Ind. 110;
 C., C., C. & I. Ry. Co. v. Harrington, 131 Ind. 426;
 Shea v. City of Muncie, 148 Ind. 14;
 Cooley's Cons't Limitations (7 Ed.), 833, 844.

The Commission, therefore, concludes that these contracts have no legal and arbitrary effect upon these proceedings and that the Commission, in the division of the expenses of installation, maintenance and operation, has complete authority to exercise its functions as an administrative body looking only to the situation and facts surrounding the parties uncontrolled by any prior agreements. The act of the Commission being legislative in character and on that account not being subject to appeal, it becomes the more important that its action should be justified upon principles of reason and justice and that no burden should be charged to either of these companies that is not justified by the facts of

the situation and which is not satisfying to the minds of just men as its proper proportion of the expense imposed by the State for the public good.

As to expense of installation and maintaining the crossing proper the contracts are effective and are not impaired by this proceeding. The apparatus now in use for guarding these crossings, is inexpensive, so much so that the parties have made no statements as to its value or loss on account of its use being superseded, and as to the Grand Trunk none of that loss will be sustained by it, and therefore we do not consider that the present protecting devices are factors of importance in determining the question. Therefore, it appears that the State should enforce division of the expense of installation and maintenance upon the basis heretofore indicated, i. e.: that of functions required for the protection of each road, and that the expense of maintenance should be apportioned in the same way, on account of the joint ownership in the property.

The safety appliance forced upon the parties by the State, by virtue of this proceeding, takes the place of and supersedes the watching expenses incurred by the companies when this proceeding was commenced, and looking to all the facts and surroundings it is the judgment of the Commission that equity and fair dealing requires that a sum equal to those expenses should be arbitrarily charged to the Monon at the Grand Trunk crossing, and equally divided between the Pan Handle and the Monon at the Pan Handle crossing and taken from the cost of operating the new device and the balance apportioned between the roads upon the same basis as the expense of installation and maintenance and an order will be entered accordingly.

Hunt, Chairman, concurs.

Wood, Commissioner, Dissenting.—I concur with the other two members of the Commission, except with reference to the apportionment of the cost of installing, maintaining and operating the two interlockers.

I think that while the Commission has the power under §5158c (Burns R. S. 1901) to disregard the written contracts entered into between the Chicago, Indianapolis & Louisville Railway Company and the Pittsburg, Cincinnati, Chicago & St. Louis Railway

Company and the Chicago, Indianapolis & Louisville Railway Company and the Grand Trunk Western Railway Company (see 170 U. S. 57), nevertheless that it is just and equitable that the cost of constructing, maintaining and operating said interlockers should be divided in accordance with the spirit and terms of the contracts between the said parties, except as modified by the agreements of said parties contained in the briefs in this case. It is clearly right that the railroad last constructed should pay all of the expense of the crossings, if not an additional sum which might be added for the delays and dangers to the senior road. The courts have so decided again and again where there was no statute, and every legislative enactment in this State, on this subject, whether for a simple crossing of the old style or the more modern interlocking device, relieves the company whose right-of-way and railroad track is taken of any cost of construction.

5154 Burns' R. S. 1901.

And the more recent expression of the legislative will required the last company, where interlockers are put in, to pay also for all future maintenance and operation.

5158d Burns' R. S. 1901.

The pure equity of the case, and also, the guide of these statutes, clearly control the "legally delegated discretion" of the Commission, but when the parties themselves, by written contracts, long acquiesced in and never doubted or objected to, until these proceedings, have affirmed their willingness to carry out what the law clearly imposed on them, it would be a work of supererogation, if not worse, for this Commission, by an order it has the power to make, to relieve the petitioner both of his legal and contractual obligations. We can not believe that the statute (§5158c) whose main purpose was to secure safe crossings and which gives to the Auditor the incidental power to fix proportionate costs and expenses thereof, should be made an instrument of manifest injustice, to absolve corporations of their contracts. The primal legal rights of contracts, so apparent and necessary that they are not defined by statute, are of greater force and effect than this incidental clause in the law, giving the Commission the right to apportion

the cost of crossings; and all the provisions of law, common or statutory, must be construed into one harmonious system.

With this relation there is nothing in the section to prevent the Auditor or the Commission from both protecting the public under the police power of the State, and, at the same time, to give effect to the contracts of these parties and other statutory laws. Full discretion is given to the Commission, except as suggested by other statutes, as stated above, to apportion the cost and expenses, but we are unwilling to think that the legislature intended, because it conferred the power, to authorize the Commission to disregard elemental principles of right and contract, which are implied in all statutory law.

The Monon-Grand Trunk contract is short and clear. The main stipulation obliges the Monon to maintain good and sufficient crossings. It points to the future by providing for "additional tracks," by requiring good and substantial "semaphores" or other "signals," and by providing how repairs shall be made "forever."

"All of such crossings shall be put in at and upon the grade of the railway of the party of the first part and shall be done in a good and substantial manner, so that the party of the first part shall be able to operate its road at that point with convenience and safety, and that said crossing shall be so maintained and kept in repair by the second party at its individual expense forever."

Now, a railroad crossing, if only the word "crossing" was used, does not mean only where the rails and timbers of the crossing come in contact. This contract was made in a time of invention and progress, when railroads were building for the future as well as the present, and when interlockers had been invented. A railroad train approaching a crossing is taken under control of the engineer by shutting off steam, long before it reaches the crossing, and whistling posts are put up a quarter of a mile or more from the crossing. The words "semaphore" and "signal" are used in the contract, and the increased business and number and speed of trains and new devices and facilities are clearly intended in the provision "that such crossings shall be put in so that the party of the first part shall be able to operate its road at that point with

convenience and safety" (what significant words!) "and that such crossings shall be so maintained by the party of the second part forever." This contract was a lasting covenant, well understood, made between good railroad men for the future to cover all devices and plans, not only for the safe but even for the convenient operation of this crossing forever, referring to and comprehending increasing business and a constantly improving highway.

I have noted the suggestion of counsel that in its decision a precedent shall be established to be used in subsequent controversies on this subject. While in most cases "the basis of functions used" will supply a very just rule to guide the Commission, there will likely be so many differences of topography, of number of trains and tracks, and customs and contracts of parties that I would prefer to follow, in each case, as it may be presented, the wide discretion given by the statute, looking especially to the laws of the State with reference to priority of occupation and construction.

I think that the Commission should order that the said Pittsburg, Cincinnati, Chicago & St. Louis Railway Company shall, within ninety days from this date, install an approved interlocking plant at said crossing with the Chicago, Indianapolis & Louisville Railway, and that it shall operate and control the same; that the cost of such plant and the cost of renewal and maintenance shall be apportioned on the basis of the lever functions operated for the benefit of each company; that the first cost of all future additions shall be made at the expense of the party for whose benefit such changes or additions shall be made; that the said Pittsburg, Cincinnati, Chicago & St. Louis Railway Company shall employ the necessary men to operate said plant, subject to the approval of the Chicago, Indianapolis & Louisville Railway Company, and that all the expense of operation, including the pay of said employes, shall be equally borne by said parties on monthly statements rendered the said Chicago, Indianapolis & Louisville Railway Company by the Pittsburg, Cincinnati, Chicago & St. Louis Railway Company.

I think that the Commission should order that the said Chicago, Indianapolis & Louisville Railway Company shall within ninety days from this date install an approved interlocking plant at its Maynard crossing with the Grand Trunk Western Railway, said

interlocking plant to be of standard grade and capacity and satisfactory to the said Grand Trunk Western Railway Company; and that the expenses of constructing said plant and maintaining and operating said plant shall, with such additions as may be hereafter required for the safe and convenient operation of such crossing, be borne solely by the Chicago, Indianapolis & Louisville Railway Company.

No. 2.—*Ex Parte Pennsylvania Company, operating the P., Ft. W. & C. Ry.; and the Vandalia Ry. Company.*

1. Application for the approval of plans for an interlocking machine and to inspect the plant at the crossing of these lines at Columbia City, Indiana.

2. Plans referred to the Commission's consulting engineer for examination, and upon his favorable report being filed the plans were approved.

3. Upon direction from the Commission, its consulting engineer made an examination of the plant and its operation, and upon his favorable report being filed an order was made approving the plant and notices issued authorizing the operation of trains over the crossing without stopping, after June 1, 1905.

No. 3.—*Ex Parte Vandalia R. R. Co. and Indianapolis Union Railway Co.*

1. Application for the approval of plans for an inspection of an interlocking machine at the crossing of these railroads at West Indianapolis.

2. Plans referred to the Commission's consulting engineer for examination, and upon his favorable report being made the plans were approved.

3. Upon direction from the Commission, its consulting engineer, after the completion of the plant, made an examination of its construction and operation, and upon his favorable report being filed an order was made approving the plant, and notices issued authorizing the operation of trains over the crossing without stopping after November 6, 1905.

No. 4.—*Ex parte Indiana Northern Traction Co., and Cleveland, Cincinnati, Chicago & St. Louis Railway Company.*

1. Application for the approval of plans and construction and operation of an interlocking plant at the crossing of these railroads at Marion, Indiana.

2. The Commission directed its consulting engineer to examine the plans and the construction and operation of the plant, and upon his favorable report coming in the Commission approved the plans and the plant, and issued notices authorizing the operation of trains over the crossing without stopping after October 10, 1905.

No. 5.—*Ex parte Pittsburgh, Ft. Wayne & Chicago Ry., Chicago Lake Shore & Eastern Railway, Chicago Terminal Transfer Railroad, Wabash Railroad Company, Elgin, Joliet & Eastern Railroad, South Chicago & Southern Railroad.*

1. Application for the approval of plans and the construction and operation of an interlocking plant at the crossing of these railroads at Clarke Junction.

2. The Commission appointed its consulting engineer to examine the plans, also the construction and operation of the plant, and upon his favorable report coming in the plans and plant were approved and notices issued to the companies authorizing the operation of trains over this crossing without stopping after August 7, 1905.

No. 6.—*Schnull & Company v. Vandalia Railroad Company.*

Smith & Korbly for the petitioner.

Jno. G. Williams and S. O. Pickens for the respondent.

1. This was a formal petition filed by the petitioner requesting a reduction in class rates on the respondent railroad from Indianapolis, Indiana, to all stations on its St. Louis division between Indianapolis and the Indiana-Illinois state line.

2. After taking much evidence and long consideration of this cause, the Commission, on July 27, rendered its decision reducing the class rate in force at the time the petition was filed 33 1-3 per cent.

3. On August 30, at the request of the petitioner and the respondent, a rehearing was granted in this proceeding, and subsequent to that time much additional testimony had been taken, and on October 15 the parties interested in such proceeding, together with representatives of all the principal railroads operating in this State, requested the Commission to suspend further consideration of the cause for the reason that such railroads and the shipping interests of the State were negotiating for the purpose of a general revision and reduction in class rates over the entire State, with a prospect of a material reduction to become effective in the near future, the same, however, not to be put into force until approved by the Commission. Conceding at once the vast benefits to accrue on account of such amicable adjustment, the Commission readily consented to withhold further consideration of this cause until the carriers and shipping interests shall have a reasonable opportunity to adjust their differences.

4. The facts at issue and conclusion of the Commission thereupon in the original hearing of this cause are set forth in the following opinion:

No. 6.—*Schnull & Company v. Vandalia Railroad Company.*

McAdams, Commissioner.—The petitioner is engaged in the wholesale grocery business in the city of Indianapolis. As such it has for many years, and hereafter will continue to ship its goods over the respondent's line between such city and the points reached by it, over its St. Louis division, in this State.

Asserting that the respondent's class rates are excessive on its line from Indianapolis to the Indiana-Illinois line, the petitioner filed its petition with the Commission, demanding a reduction. The rate in force, and concerning which the complaint is made, with mileage, are as follows:

FROM INDIANAPOLIS

Station No.	Miles.	To	Rates in Cents Per 100 Pounds.					
			Classes.					
			1	2	3	4	5	6
1	0.0	Indianapolis.....	10	9	8	7	5	4
2	6.1	Ben Davis.....	12	11	10	8	6	5
3	8.8	Bridgeport.....						
4	13.6	Oakplain.....	15	13	11	9	6.5	5.5
5		Plainfield.....						
6		Gibson.....						
7	12.9	Cartersburg.....	18	15	12	10	7	6
9	20.1	Clayton.....						
11	22.8	Peeksburg.....	20	18	14.5	11	8	7
12	24.9	Amo.....						
13	28.0	Coatesville.....						
14	32.6	Fillmore.....	22	20	17	12	9	8
15		Alameda.....						
16	38.9	Greencastle.....						
17	40.3	Limedale.....						
18	43.8	Hamrick.....	24.5	22	19.5	12.5	9	8
19	47.3	Reelsville.....						
20	50.4	Eagles.....						
21	53.6	Harmony.....						
22	54.8	Knightsville.....						
23	56.9	Brazil.....						
24	59.0	Turner.....	25	22	19.5	12.5	9.5	8
25	60.9	Staunton.....						
26		Cloverland.....						
27	65.2	Seelyville.....						
29		Prairie.....						
30	72.7	Terre Haute.....						
31	75.1	Macksville.....						
32	77.7	Liggett.....						
33	79.1	Nelson.....						

The particular part of the respondent's lines subject to this inquiry was constructed near 1850. The company was organized as the Terre Haute & Indianapolis Railroad Company, and continued as such until January 1, 1905, when it was consolidated with the St. Louis, Vandalia & Terre Haute Railroad Company, the Indianapolis & Vincennes Railroad Company, the Terre Haute & Logansport Railway Company, and the Logansport & Toledo Railway Company.

At the date of the consolidation the constituent companies had outstanding stocks, bonds and other debts as follows:

T. H. & I. Co., total stocks and bonds.....	\$4,488,150
I. & V. Co., total stocks and bonds.....	4,502,000
T. H. & L. Co., total stocks, bonds and debt.....	3,931,000
L. & T. Co., total stocks and debt.....	1,619,900
St. L., V. & T. H., total stocks, bonds and debts.....	8,961,658

Total \$23,502,708

The new company has an authorized capital stock of \$25,000,000, and authorized an issue of \$25,000,000 of consolidated bonds.

Of the stock authorized, \$14,699,546 was ordered issued. The stock so issued was apportioned among the stockholders of the constituent companies and applied to the payment of existing bonds and debts of the constituent companies, and other debts of the constituent companies were assumed, as shown in the following statement:

T. H. & I. Co., new stock.....	\$5,946,450
T. H. & I. Co., debts assumed.....	2,500,000
Other companies' new stock divided among stockholders and bondholders	8,703,096
Other companies' debts assumed.....	8,127,000
<hr/>	
Total liabilities, new company.....	\$25,276,546

During the first year of operation the new company received, from the operation of its line, in net revenue, and expended the same as follows:

To net revenue, from operation.....	\$1,642,210	
By loss in operating T. H. & P. R. R.		\$141,845
By rent for use of tracks.....		9,000
By interest on funded debt.....		540,170
By dividend (4 per cent. on stock).....		564,282
By reserve for extraordinary expenses.....		325,000
By balance to profit and loss.....		61,913
<hr/>		
	\$1,642,210	\$1,642,210

This rather gratifying result was obtained after conducting the passenger business at a net loss of over \$70,000, and upon a net revenue of one and one-half mills per ton mile upon the freight handled, and upon an average earning of 40.6 cents per freight train mile.

As our inquiry relates entirely to intrastate business and that portion of the respondent's line between Indianapolis and the Indiana-Illinois line, we will confine ourselves to the history of that part of the property, but before passing to that subject, we call attention to the significant fact that the original stock of the T. H. & I. was only \$1,988,150, and that in the reorganization this eighty miles of the new company was assigned new stock, to the extent of \$5,946,450, or about three for one, and in addition

thereto the new company assumed the payment of \$2,500,000 of the debts due from this part of the line.

Early in the history of this line, it became apparent that it was a profitable property, but unfortunately its management digressed from a policy of caution and took over large quantities of the stocks and bonds of other companies, and entered into leases for the operation of the lines in whose stocks and bonds it had become interested. The company thus took over the Indiana & Lake Michigan line between South Bend and St. Joseph, Mich., and the Terre Haute & Peoria Railroad between Terre Haute and Peoria, Ill., and the St. Louis, Vincennes & Terre Haute Railroad between Terre Haute and East St. Louis, Ill. These lines all proved to be money losers to the lessor under its contracts. After continuing the struggle for several years, the company succumbed to the inevitable and went into the hands of a receiver on November 14, 1896, and was operated by the receiver until shortly before the consolidation. After going through the record of this cause, it is difficult to realize the fact that the same management could have produced the results obtained in acquiring revenue, and have been guilty of the results shown in the disposition of the earnings of the company. The general rule is that he who can successfully produce, generally has ability to husband and preserve. The opposite has been the course with this railroad company. It may have been so ordered by the courts in whose custody the property was; however, it is worthy of remark that it seems wrong, if not unlawful, for a railroad company chartered in Indiana to serve a part of its territory and people to collect charges from such territory and people to be expended in the operation of unsuccessful properties in foreign States, for the convenience of the territory and people of the foreign States. The management responsible for the development of this property, establishing its business and relations, developing the resources along its line and bringing it to its present high standard of efficiency, deserves every commendation, but the dissipation of its earnings to purposes not contemplated by its charter does not meet with our approval, and therefore for the purpose of this proceeding it becomes necessary to inquire what the earnings have been and their disposition.

The record shows that this line has been very successful in its operation. The record shows also that the stock of this company amounted to \$1,988,150; its bonded indebtedness, \$2,500,000, making in the aggregate \$4,488,150.

The Auditor testifies that the funds derived from these stocks and bonds, or other bonds refunded by the present issue, were used in the original construction and equipment of the line, and that all other funds expended by the company were taken from its earnings. We learn from the record that the largest sum carried upon its books as cost of equipment and road is \$3,806,694, being \$681,456 less than the face value of the stocks and bonds. This difference may be represented by discount at their sale, or in other ways not explained in the record. It does appear, however, what sums were expended from the earnings for purposes other than interest and dividends, as follows:

3,260 shares preferred stock of St. L., V. & T. H. purchased....	\$230,300
5,000 shares common stock of St. L., V. & T. H. purchased....	275,000
5,442 shares preferred stock of T. H. & P. Co. purchased.....	28,913
13,380 shares common stock of T. H. & P. Co. purchased.....	71,087
Bonds of the T. H. & P. Co.....	34,500
Expended from 1880 to 1904 inclusive, by loss in operation of leased lines	2,984,785
Expended in betterments added to the St. L., V. & T. H. Co. while being operated under lease.....	216,640
Expended in increasing capacity of the equipment and motive power	500,000
Expended in construction of sidings and branch lines subsequent to 1880, and charged to expense of operation (based on assessed value)	426,920
Expended on acquiring one-fifth interest in Indianapolis Union Railway Company.....	165,535
Total	\$4,933,680

This sum is large, yet it does not include any sum expended on account of increased value of the property on account of change from iron to steel rails or from light to heavy steel. It is also worthy of remark that for the years 1880 to 1904, while a part of these expenditures were being made, this company paid the interest on its bonded indebtedness, and also for the first five years paid a 4 per cent. semiannual dividend upon its stock, and for the next nine and one-half years paid a 3 per cent. semiannual

dividend upon its stock, amounting in aggregate to \$5,088,005, and then for the whole twenty-four years it carried to profit and loss account a net sum of \$1,761,148, derived from its earnings, and in addition thereto expended from its earnings in making additions and betterments the sum of \$1,160,777 that was not carried into expense of operation.

The receiver was appointed on November 14, 1896, and discharged October 31, 1904. During the time the property was in the custody of the court, the record shows that all its operating expenses and taxes were paid. Also the interest upon its bonded indebtedness, and that there was then remaining for the ninety-six months of the receivership the sum of \$3,286,966 of profits from the operation of the line. In addition to this sum, large sums were expended in betterments, additions and for other purposes which were charged to expense of operation. A fair account of profits for this period and their application follows:

Profit from operations, as above.....	\$3,286,966
Extension of sidings, charged to operation.....	62,160
Additions to equipment.....	500,000
Floating indebtedness paid by receiver.....	534,991
Betterments added to St. L., V. & T. H. while operating under lease and charged to expenses.....	216,640
Total	\$4,600,757
 By loss in operation of St. L., V. & T. H. Co.....	 \$21,222
By loss in operation of I. & L. N. Co.....	10,205
By loss in operation of T. H. & P. Co.....	808,366
Expenses of receivership	183,582
Balance of profits.....	3,577,382
 Total.	 \$4,600,757

For the purpose of determining the earning capacity of the property, it would be unfair to apportion this balance of earnings upon the initial capital stock of the company for the time. A more just estimate is arrived at by determining the value of the property subject to its debts. That is what the stock represents. By adding to the book value of the property the sum expended in the construction of a second track, sidings and branch line and in increasing the capacity of the equipment, all of which were charged to operating expenses and the sum expended by the re-

ceiver in betterments, as shown by the record, we get the value of the property and equipment as follows:

Book value	\$3,806,694
Additions, increase equipment charged to expenses.....	500,000
Additions, second track, and sidings and branch line, charged to expenses	782,845
Additions and betterments, added by receiver.....	1,160,777
Total	\$6,250,316

This sum is more than one and a half millions in excess of the value of the property, as determined by the State Board of Tax Commissioners, but as appears from the evidence, it is a fair value for the property.

Then we have the value of property.....	\$6,250,316
Less funded debt.....	2,500,000

Value represented by stock.....	\$3,750,316
---------------------------------	-------------

Taking this value, at the close of the receivership, as a basis for the whole period, then the earnings during the receivership should be apportioned upon that sum, for the purpose of determining the earning capacity of the property. The total earnings during this period, not properly applied to expenses of operation, as we have seen, were \$4,600,757, which equals 20.44 per cent. per annum for the six years of the receivership, calculated upon the value of the property, less the bonded debt. For the purpose of this cause, it is unimportant that the earnings were not in fact so divided, but were used for other purposes, and in adding betterments to the road, as shown, because the value of the property includes all such sums as were so used. If, for the purpose of this cause the company is entitled to have deducted from its earnings the losses sustained in the operation of other lines and the expenses of the receivership caused thereby, then we find the earnings for the period to be \$3,577,382, which would amount to 15.85 per cent. per annum upon the value of the property, less the bonded debt.

The growth of the business on this line, from the earliest statistics available from the reports of the Company, also the increase in population of the counties through which the line runs, and the average rates per ton mile and average expenses per ton mile are all shown by the following table of percentages:

Popu- lation.		Tons Freight.		Passen- gers Carried.		Revenue Pass. Freight Ex & Mail.		Expenses Opera- tion.		Net Revenue.		Revenue Per Ton Mile.		Expense Per Ton Mile.	
1853 to 1904	1890 to 1904	1875 to 1904	1890 to 1904	1855 to 1903	1890 to 1903	1853 to 1904	1890 to 1904	1853 to 1904	1890 to 1904	1853 to 1904	1890 to 1904	1875 to 1904	1890 to 1904	1875 to 1904	1890 to 1904
322	26	219	89	660	150	1820	69	4596	94	480	12.2	D45	.22	D33.6	16

Note: D Decrease.
All other percentages shown as Increase.

The freight statistics for the years 1895 to 1904, local and foreign, together with revenue derived therefrom and revenue per ton mile, local and foreign, and expenses per freight train mile and per cent. of operating expenses to earnings, are as follows:

Year.	Value of Road and Equip- ment.	Local Freight, Tons.	Local Freight, Revenue.	Foreign Freight, Tons.	Foreign Freight, Revenue.	Revenue per ton Mile, Local.	Revenue per ton Mile, Foreign.	Expense per Freight Train Mile.	Per Cent Opera- tion to Earn- ings.
						Cents	Cents		
1895....	\$3,806,691	691,346	285,486	989,758	491,979	1.394	.747	1.16	77.63
1896....	3,806,694	708,800	294,188	943,232	456,176	1.280	.725	1.51	83.79
1897....	3,806,694	591,526	243,896	988,185	478,547	1.137	.725	1.60	71.74
1898....	3,806,694	720,333	300,740	1,514,717	587,369	1.351	.561	1.45	66.36
1899....	3,806,694	1,030,998	399,144	1,456,014	544,237	1.277	.565	1.53	64.76
1900....	3,806,694	1,034,879	408,445	1,462,418	619,310	1.306	.636	1.63	64.37
1901....	3,806,694	1,050,098	369,893	1,505,437	630,442	1.352	.645	1.37	60.25
1902....	3,806,694	1,496,426	518,829	1,529,100	589,000	x.782	c.525	1.75	62.20
1903....	R 2,506,694 E 1,300,000	1,513,796	638,474	1,844,916	689,041	x.79	c.60	1.61	71.65
1904....	R 2,506,694 E 1,306,000	1,342,876	571,243	1,528,749	634,821	x.86	c.79	2.00	76.04

Note—X Average revenue per ton mile, foreign and local freight.
C Average cost per ton mile, foreign and local freight.

The system of keeping the accounts of the company does not recognize the distinction between interstate and intrastate business. In the last preceding table, for instance, the term local freight embraces all freight originating on the line, regardless of the point of destination, whether on or off the line, and whether within or without the State. The term foreign freight, as used in such table, embraces all freight originating on other railroads and delivered to the company at its connections, regardless of destina-

tion, whether on the line or off the line, or in or without the State. The record does not recognize what we will designate as domestic traffic; that is, freight originating on the line and destined to points in Indiana on or off the line, and freight originating anywhere in the State and coming on the line and destined to points in Indiana, either on or off the line. Hereafter when these terms are used they will severally refer to the traffic as thus defined, unless otherwise indicated. For the purpose of this investigation, the auditor, at the petitioner's request, has gone through the records for certain months of the year 1895 and made a statement of the traffic starting and ending on the line, and starting in the State and ending on the line, together with revenue derived therefrom. Calculations for the year have been made upon the basis so furnished, as compared with the total year's business for 1904, and in doing so the basis for the months used has been reduced ten per cent., as it appears the traffic for 1905 exceeded that of 1904 by that per cent. The separation of the traffic and revenue upon such basis is as follows:

	<i>Tons.</i>	<i>Revenue.</i>
1. Local freight, 1904.....	1,342,876	\$571,243
2. Foreign freight, 1904.....	1,528,749	634,821
Total, 1904	2,871,625	\$1,206,064
3. Domestic traffic originating and terminating on line	518,426	\$281,431
4. Domestic traffic originating in Indiana and terminating on line.....	116,349	56,247
5. Local freight less Item 3.....	824,450	289,812
6. Foreign freight less Item 4.....	1,412,400	578,574
Total, 1904	2,871,625	\$1,206,064

These calculations show with reasonable certainty the domestic traffic in the case mentioned. The remainder of the domestic traffic, namely, that originating on the line and destined to Indiana points off the line, and that originating in the State off the line and passing on the line and destined to points in the State off the line, are not shown. The former item is included in Item five local freight, and the latter in Item six foreign freight.

A comparison of the total gross earnings per ton for freight carried according to the actual report of 1904 local and foreign

and total and the rates that would accrue under the foregoing division of the traffic are as follows:

	Cents.
Average gross earnings per ton, local freight, 1904.....	42.5
Average gross earnings per ton, foreign freight, 1904.....	41.5
Average gross earnings per ton, all freight, 1904.....	42
Average gross earnings per ton, domestic freight, as defined in Item 3 above.....	54.2
Average gross earnings per ton, domestic freight, as defined in Item 4 above.....	48.3
Average gross earnings per ton, local freight, less domestic, as defined in Item 5 above.....	35.1
Average gross earnings per ton, foreign freight, as defined in Item 6 above.....	40.9

Upon the usual basis of calculating gross ton revenue and gross revenue per ton mile, a ton carried upon each of the class rates involved in this hearing produces this result, as compared with the two preceding years:

Average gross revenue per ton on class rates.....	\$2 42
Average gross revenue per ton, 1904, all traffic.....	42
Average gross revenue per ton, 1905, all traffic.....	652
Average gross revenue per ton mile class rates.....	084
Average gross revenue per ton mile, 1904, all traffic.....	0086
Average gross revenue per ton mile, 1905, all traffic.....	0074

The record shows that the total traffic in 1904 over the line in question was 2,871,625 tons, and that of this only about 250,000 tons, or less than ten per cent. was carried upon the class rates, while all the other tonnage was carried in carload quantities and on commodity rates, which in many instances are very low, and all instances less than the class rates. It also appears that this line is affiliated with the Pennsylvania System, which is the greatest operating company in this country. That it is the connecting link between that system and the St. Louis gateway to the West and Southwest. Such being true, much through business west from the seaboard and Pittsburg must pass over this line to the west and south, and traffic of a like character must also naturally flow in the reverse direction. This being true, it appears with reasonable certainty from the record, that of the ten per cent. of its tonnage which moves on class rates, a very large and substantial portion is moved upon what is made up of what is styled in this record as foreign freight, which is carried on through trains, and al-

though carried at class rates, the rates for such through business are very low per ton per mile as compared with the rates here in question.

So far as the record is made up, the expenses per freight train mile have been as follows:

1895.....	\$1 16	1901.....	\$1 37
1896.....	1 51	1902.....	1 75
1897.....	1 60	1903.....	1 61
1898.....	1 45	1904.....	2 00
1899.....	1 53	1905.....	1 54
1900.....	1 63		

These fluctuations are not satisfactorily explained in the evidence, unless they are accounted for by the fact that the company has improperly charged to expense of operation certain betterments and additions, as heretofore stated. We are unable to discover any reason for the expenses in 1904 being 33 $\frac{1}{3}$ per cent. more than in 1903, or for these expenses to be 25 per cent. less in 1905 than they were in 1904, and in the consideration of this proceeding we shall eliminate this data for the year 1904 as being unreliable.

The officials of the company appearing in the cause say that they have no knowledge as to whether the class rates are too high or too low, and that they do not know whether the business conducted by the company upon such rates is profitable or otherwise, and that they have no knowledge of any officer who would be able to furnish the Commission with that information. There is uniformity in the testimony of the officials that there has been no substantial change in the class rates for the last thirty years. The table heretofore inserted shows that from 1875 to 1904 there was a reduction in the average rate per ton per mile of 45 per cent., and that from 1890 to 1904 there was an increase in such rate of 22-100 of one per cent. These reductions, therefore, must have applied entirely to the business carried upon commodity rates. Or it may have been, and most probably was, accomplished by classification. That is, by removing large quantities of the traffic from the class rates and carrying the same upon commodity rates. Such seems in recent years to have been a favorite manner of adjusting rates, and this conclusion is sustained by the fact that the

tonnage on class rates has now become less than ten per cent. of the total traffic.

There has been a great mass of evidence on the subject of the business transacted by and expenses of operating the local freight trains over this line. It appears that one train passes over the line in each direction each business day, and that they run between Indianapolis and Terre Haute. The superintendent informs us that the average number of loaded cars in these local trains is 10.23 cars, which would make a total loaded car movement of 7,301 per year. The statistics for the year 1904 show that the average tonnage per loaded freight car for all traffic is 16.79 tons, and for 1904 it is 17.77 tons per car. For the same years the statistics show that the average number of loaded cars per freight train, all classes, is for 1904, 15.19 cars, and for 1905, 14.85 cars.

The evidence shows that all the classified traffic loaded at the local freight office in Indianapolis is less than carload lots amount to approximately twenty-five cars daily, and that such of this traffic as is destined to any point west of such city to and including Terre Haute, and being purely domestic traffic, goes forward on the west bound local, and that the residue of the traffic passing through such freight office destined to points west of Terre Haute, and consisting almost entirely of interstate traffic, is carried on through trains. The inquiry here resolves itself, in the last analysis, to the business designated as domestic traffic, as indicated in item three above, and moving at the average rate of 54.2 cents per ton gross revenue. For the purpose of calculation, it has been assumed in the evidence and by counsel, that the rates east and west bound are substantially the same, and that the expenses of operation and extent or flow of traffic are also substantially the same. If the auditor and counsel had devoted their labors to the ascertainment of the actual tonnage moving west on the class rates and the revenue therefrom and expenses incident thereto, this cause would have been much more readily determined. However, the facts in evidence lead to certain conclusions with the certainty that usually attaches to complicated questions of this kind. As it appears from the evidence, these locals, when they leave the termini of the line, start with their maximum tonnage, and while on the line much shifting is done by the crew at

local points. A great amount of local traffic is discharged and other traffic taken on, and a great amount of other traffic moving on commodity rates is taken up and carried to the termini of the line. In so far as the facts show, and in so far as reasonable inferences may be indulged, there is carried on the class rates on these local trains 48,108 tons per year, and that the balance of the average loaded car tonnage hauled by the local trains should be charged to the traffic moving on other rates and in carload lots, such as coal, grain and such other articles as may be taken up at local stations. This conclusion is justified by results obtained from a calculation of the various classes of freight carried at the various rates as follows:

48,108 tons at class rates, \$2.42 per ton.....	\$116,421
470,318 tons at commodity rates, .351 per ton.....	165,081
<hr/>	<hr/>
518,426	\$281,502

This sum approximates the tonnage and revenue for the domestic business of the line, as decided by the examination of the books. While it is not absolute, it is the nearest approach to mathematical certainty that can be obtained, except by actual demonstration from the books. In addition to these earnings of the local trains on the classified traffic to the extent of nine and one-half tons per car, we should charge to the earning capacity of those trains the balance of the tonnage per car to bring it to the average carload used by the superintendent in his evidence upon this subject, and as stated in the company's report for 1904. If we do this then we have the total earnings of these local trains for the year as follows:

48,108 tons on class rates at \$2.42.....	\$116,421
74,475 tons on commodity rates at .351.....	26,130
<hr/>	<hr/>
122,583	\$142,551

From the evidence and data given, it appears that not more than one-third of the traffic passing through the local freight office at Indianapolis and Terre Haute and moving on the class rates, is carried by these local freight trains, and that at least two-thirds of such traffic as originates at these two points on the line is handled by the through trains, or trains other than these two locals.

There has been much said about the extra expense of operating the local freight trains over the expense of all freight trains. There is some justice in this contention. We find that there should be charged to the local freight trains on account of handling the classified freight moved by them the sum of \$11,956 in excess of other freight. . Also the sum of \$3,880 on account of excess in per diem of train crews, and \$2,000 on account of coal consumed over other trains, and in making this charge against the local trains we figure that only a certain part of the extra expense of handling the classified traffic over the platform and at way stations should be charged thereto, and that the total extra expense for handling such traffic over other traffics should be \$39,574 on account of the total classified freight. Excluding the year 1904, we find the average expense per freight train mile for the years 1890 to 1905 to be \$1.58. The total train mileage of all trains was 551,726, therefore the extras, to be charged to the class traffic, \$39,574, would reduce this average .071 cents per mile, leaving the expense per freight train mile for all classes at \$1.51. At these figures we arrive at the expenses of the local trains as follows:

49,218 miles at \$1.51.....	\$74,319
Station labor	11,956
Per diem, train crews extra.....	3,888
Coal consumed, extra.....	2,000
Total	<u>\$92,163</u>

This calculation shows a surplus of earnings over expenses of these trains of \$50,388. The ton miles of the traffic carried by these trains is 4.3 per cent. of the total ton mileage and 4.3 per cent. of the value of the property, being the portion used for this traffic, is \$268,763, which at 5 per cent. equals \$13,438, leaving a surplus of \$36,950 of the earnings, or about one-third of the sum accrued upon the class rates.

We are not willing to abide results by these figures alone. There is too much uncertainty in the various elements that go to form the basis of calculation. It was in the power of the company to have demonstrated exactly the revenue and expenses, as involved in this proceeding, but it has not, and we are left to reach results from the information given.

Passing from the question of the figures, we enter the field of comparison. The following table shows the comparative rates per ton mile on the several lines indicated, also other comparative data for each of the lines, the distance covered by the class rates being approximately eighty miles in each case:

Lines Compared.	Assessed Value Per Mile.	Earnings Per Ton Mile. All Rates.	Average Class Rates Per Ton Mile.	Net Earnings Per Freight Train Mile.	Net Earnings Per Mile Road.	
	\$1,000	Cents.	Cents.	Cents.	Dollars	
Vandalia West from Indianapolis...	42	.86	8.40	18.1	2.614	1904 Report
I. & V. South from Indianapolis.....	12	.60	4.17	.....	.898	1904 Report
Panhandle South from Indianapolis.....	21	.63	5.40	84.8	5.998	1905 Report
Panhandle East from Indianapolis.....	44	.63	4.03	84.8	5.998	1905 Report
L. E. & W. North from Indianapolis.....	16	.66	11.25	126.2	1.923	1905 Report
G. R. & I. North from Richmond.....	17	.83	4.85	54.3	1.608	1905 Report
P. Ft. W. & C. West from Ft. Wayne.....	56	.61	5.08	70.1	7.221	1905 Report
Wabash West from Ft. Wayne.....	30	.58	5.13	57.0	1.369	1905 Report
C. H. & D. East from Indianapolis.....	23	.96	4.35	69.0	1.577	1905 Report
E. & T. H. North from Evansville.....	23	1.00	5.78	164.8	5.472	1905 Report
Big 4 West from Indianapolis.....	26	.63	6.67	85.8	3.045	1905 Report

It will be noticed that the rates compared in the foregoing table embrace several lines controlled by the Pennsylvania Company, which owns the majority of stock of the respondent and dominates its policy. We know that the physical conditions obtaining on these lines are not greatly dissimilar from those obtaining on the Vandalia, and that the opportunities for classified traffic on these lines are not in any case superior to the advantages enjoyed by the respondent on account of the large cities located at its termini. If there be any difference in the physical condition it is more expensive to operate the I. & V. Division of the Vandalia and the Louisville Division of the Pan Handle than it is to operate the line in question, and yet the rates are about 50 per cent. less in the one case and 35 per cent. less in the other. It is apparent from the record in this case that this line is one of the most valuable properties in the State. Why its rates should be so much in excess of the rates of other roads of like character, and also very much in excess of the rates on roads of inferior character and so much in excess of the rates carried by other companies with which it is affiliated and which dominate its policies and control its revenues, is not undertaken to be explained in the evidence or the argument. The evidence shows that for the last year, when this line was op-

erated separately, its net earnings from operation amounted to \$510,678, or over 8 per cent. on the value of the property at over \$78,000 per mile of main line, as determined by the Commission, and this result was obtained after carrying large sums to expenses of operation that do not properly attach to such expense.

The law demands on behalf of the company that all its legitimate operating expenses and taxes be paid out of its earnings, and that a reasonable sum be expended in repairs and replacements, so that the property shall be maintained and continued to be efficient for the discharge of the public obligations due from the company, and that then, in addition thereto, a reasonable sum be allowed to reimburse the owners for their investment in the property. The Commission frankly accedes to this demand, but this record shows beyond room for cavil that the earnings of this line are excessive and greatly exceed that measure of compensation authorized to be claimed by a public service corporation. We see by the record that this company has appropriated from its earnings money to purposes other than dividends as follows:

Added to value of road.....	\$2,453,722
Lost on operating leased lines.....	2,984,785
Invested in Indianapolis Union Railway.....	165,535
Invested in equipment of leased line.....	216,640
Invested in stocks and bonds.....	639,800
<hr/>	
Total	\$6,460,482
Deduct dividends passed, 6 per cent. 10½ years.....	\$1,252,534
<hr/>	
Balance	\$5,207,948

These figures are fixed and reliable, and point with certainty to the conclusion that the public has been paying too much for what it has received. The record shows that during this time and while these marvelous earnings were being piled up the average rate per ton per mile on all traffic has been reduced 45 per cent., but that in making such reduction there has been no substantial change in the class rates involved in this proceeding.

The best information we can obtain from the figures given indicate that the class rates are 33½ per cent. higher than they should be to comply with the law, and the fact that the average rates have been reduced 45 per cent. and the class rates not disturbed, and the general result being as stated, points to the conclusion that the

class rates also should be materially reduced. A comparison with other lines also indicates that these rates are excessive by at least $33\frac{1}{3}$ per cent. The amount of traffic which moves upon the rates involved in this proceeding west from Indianapolis is small when compared with the whole traffic, and likewise is small when compared with the whole traffic which moves on the classified rates. We have already indicated that the total traffic carried upon the classified rates by the respondent does not exceed 10 per cent. of the total traffic, and it is reasonably certain from the record in this case that the total tonnage which moves west from Indianapolis on these rates will not exceed 10 per cent. of the classified traffic, and possibly not exceeding 25,000 tons per annum; however, the determination of this question is not important in this cause, excepting as indicating what effect a change in the rates involved would have upon the revenues of the respondent.

After long and careful consideration, the Commission finds that the classified rates now in force on the respondent's line from Indianapolis to all stations west to the Indiana-Illinois line are excessive and unlawful, and that reasonable classified rates for future observance to such stations should not be in excess of $66\frac{2}{3}$ per cent. of the present rates, and an order will be entered accordingly, to become effective September 1, 1906.

After the close of the year and before publication of this report the cause was again determined in the following opinion by:

McAdams, Commissioner.—In the original hearing nothing was produced in the evidence or argument as to whether or not the present rates on respondent's line bear the proper relation to each other in the respective classes in which they apply, or as to whether or not such rates are properly proportioned as to the various stations on respondent's line when compared with the mileage of such stations. In the former hearing and decision the present rates were treated by the Commission and by the parties as uniform and bearing the proper relation to each other, and the sole question determined was, whether such rates as a body were excessive, regardless of any other question.

The principal reason for granting the rehearing was to enable the parties and the Commission to consider the relation of the

rates in these particulars, and, of course, to hear any additional evidence which might be offered upon the other questions presented.

Since the rehearing was granted considerable additional evidence has been offered. This evidence, in some instances, has been cumulative and upon questions considered before, viz., terminal and station expense in handling local class freight, physical conditions of respondent's line and other lines, and the cost of materials, and the expenses of operation. Upon the subject of the relation of the rates to the classes and to mileage, we have now for the first time the evidence of respondent's general freight agent and the evidence of other witnesses. We have also before us for the first time the C. F. A. scale of minimum class rates. In addition to the evidence upon these subjects, we now have in the record a statement of the changes in classification which have become effective since 1900, being changes found by comparison of Official Classifications Nos. 19 and 28, as published by the Official Classification Committee, and effective in this State. It appears from this statement that numerous articles moving on class rates were moved up one class when Official Classification No. 20 was issued in 1900, thereby taking a higher rate. The increase in rates on the articles so reclassified ranges from 10 to 40 per cent., when calculated upon the rates in controversy here. After the reclassification of these articles, the Classification Committee promulgated Rules 25 and 26, which created for articles moving under such rules a rate under the first rule of 15 per cent. less than the second class, and under the second rule a rate of 20 per cent. less than third class.

While these changes in classification show a very material change in rates, there is, however, no showing whatever of the tonnage of the several articles which were reclassified, and for that reason we are unable to state the complete effect which the changes have operated to produce upon the revenues of respondent. However, it was conceded by the general freight agent of the respondent that such reclassification has resulted in an increase of rates, but to what extent he refused to venture an opinion.

After a careful consideration of all that has been offered in this

case, and after considering the additional evidence offered on the rehearing, we have concluded that the Commission should establish maximum rates over respondent's line for the carriage of classified freight from the city of Indianapolis west to the various stations on its line in this State, as follows:

RATES IN CENTS PER 100 POUNDS.

Classes.

FROM INDIANAPOLIS TO STATIONS NAMED.	Miles	First.	Second.	Third.	Fourth.	Fifth.	Sixth.
Ben Davis.....	6	8.	7.	6.5	5.	3.5	2.5
Bridgeport.....	9	8.5	7.5	7.	5.5	4.	3.
Oakplain.....	11	8.5	7.5	7.	5.5	4.	3.
Plainfield.....	14	9.	8.	7.	5.5	4.	3.
Gibson.....	15	9.	8.	7.	5.5	4.	3.
Cartersburg.....	17	9.5	8.5	7.5	5.5	4.5	3.
Clayton.....	20	9.5	8.5	7.5	5.5	4.5	3.
Pecksburg.....	23	10.5	9.5	8.5	6.5	4.5	3.5
Amo.....	25	10.5	9.5	8.5	6.5	4.5	3.5
Coatesville.....	28	11	10	9.	6.5	5.	3.5
Fillmore.....	33	11.5	10.5	9.	7.	5.	4.
Alameda.....	36	12	11	9.5	7.	5.5	4.
Greencastle.....	39	12	11	9.5	7.	5.5	4.
Limesdale.....	40	12	11	9.5	7.	5.5	4.
Hamrick.....	44	13	12	10.5	7.	5.5	4.
Reelsville.....	47	13.5	12	11	8.	6.	4.5
Eagles.....	50	13.5	12	11	8.	6.	4.5
Harmony.....	54	14	12.5	11	8.5	6.5	4.5
Knightsville.....	55	14	12.5	11	8.5	6.5	4.5
Brazil.....	57	14.5	13	11.5	8.5	6.5	5.
Turner.....	59	14.5	13	11.5	8.5	6.5	5.
Staunton.....	61	14.5	13	11.5	8.5	6.5	5.
Cloverland.....	62	15.5	14	12.5	9.5	7.	5.
Seeleyville.....	65	15.5	14	12.5	9.5	7.	5.
Prairie.....	71	16	14.5	13	9.5	7.	5.5
Terre Haute.....	73	16.5	15	13	10	7.5	5.5
Macksville.....	75	16.5	15	13	10	7.5	5.5
Liggett.....	77	17	15.5	13.5	10	7.5	5.5
Nelson.....	79	17	15.5	13.5	10	7.5	5.5

Much has been said in the argument and in the evidence as to the effect of the reduction of rates on this line upon the rates obtaining upon other lines in this State controlled by respondent, and also upon the lines of other carriers in this State. We appreciate the fact that every rate established has a relative influence upon all other rates in the same territory. However, in working out such relation, the character of the property to be affected by the change in rates, its physical condition, territory served, value of traffic, competition and other dissimilar or similar conditions must be considered, and in this view, the rates herein established have been considered.

No. 7. Romona Oolitic Stone Company v. Chicago, Indianapolis & Louisville Railway Company, and the Vandalia Railroad Company.

Walter Kessler for petitioner.

E. C. Field for Monon.

S. O. Pickens for Vandalia.

1. This was an application by the petitioner for the reduction in the rates on coal from mines in Greene County to Stinesville. The rate charged was 95 cents per ton and the Commission reduced the rate to 80 cents per ton. The division of the rate between the two companies was 35 cents to the Vandalia and 60 cents to the Monon. The Commission applied all of the reduction to the Monon.

2. This petition also involved a billing rule in force on the Monon Railroad requiring coal cars to be billed at 90 or 95 per cent. of their marked capacity. The Commission found the rule to be a just one, but that it was unlawfully enforced in that the rule was applied to cars which would not hold their marked carrying capacity, and that it was unlawful to enforce such rule against cars coming from its connections which had been correctly billed at point of shipment.

3. The Monon Railroad Company appealed this cause to the Appellate Court, where it is now pending. However, on August 25, 1906, the Monon, at the request of the Commission, in another matter, issued a special order rescinding the above mentioned billing rule and issued a new rule providing that coal cars should be billed at not less than 80 per cent. of their marked capacity, and at a subsequent date issued a new proportional coal tariff carrying a rate of 45 cents per ton on coal off the Vandalia from Gosport to Stinesville in compliance with the Commission's finding. Thereupon the Commission approved the new billing order and the new tariff.

4. The facts appearing in this cause and the conclusion of the Commission thereon are set forth in the following opinion:

McAdams, Commissioner.—In this proceeding the petitioner complains that the first-named respondent violates the law in per-

forming the service which the petitioner is required to ask at its hands. The charges are:

First: That said respondent has promulgated and is enforcing a rule requiring cars, loaded with coal and coming to the petitioner to be billed at 90 per cent. or 95 per cent. of the marked capacity of the car, and when the actual weight at the mines can not be ascertained the billing must be at the marked capacity of the car, while the petitioner charges that the coal cars of the Vandalia Railroad, in which these shipments originate and which are delivered by it to the Monon, when fully loaded, will not hold coal equal to their marked carrying capacity.

Second: That the petitioner has coal shipped to its mills and quarries at Stinesville, on the line of the Monon, from the Greene County coal fields; that on shipments coming in over the Monon as a single carrier, a charge of 80 cents per ton is made; that on shipments coming in over the Vandalia to Gosport Junction and then over the Monon to Stinesville, a charge of 95 cents per ton is made, and that this through rate is divided, 35 cents to the Vandalia and 60 cents to the Monon.

The petitioner asks to have the through rate reduced to 80 cents, the reduction to apply on the Monon's portion of the through rate.

FINDINGS.

First. The Commission finds that on November 19th, 1903, the Monon Company promulgated, and has since been enforcing, the following rules in the shipment of coal from mines on its line and received through its connections from other roads for delivery to destination, known as C. I. & L. authority No. 1,000: "Block coal, bituminous lump and egg, also mine run of all kinds will be waybilled at actual weight, but not less than 95 per cent. of the marked capacity of car. When actual weight can not be ascertained at mines bill at marked capacity of car."

"Bituminous nut, pea, slack and screenings, also block slack and block screenings, will be waybilled at actual weight when same can be ascertained at billing station, otherwise bill at marked capacity of car and note on waybill 'Weigh at nearest scale,' and cor-

rect to basis of actual weight, but in no case less than 90 per cent. of the marked capacity of car."

The proof shows that in shipments by the Monon, over its own line and in its own equipment, the observance of the above rule works no hardship, as the cars have a holding capacity, when loaded, equal to their marked carrying capacity. On the other hand the proof is equally clear that when petitioner obtains a shipment of coal from mines located along the Vandalia Line, which is loaded in Vandalia cars, the coal is billed out by the Vandalia Line at actual mine weight (less margin allowed for dampness common to both shipments); that the cars are loaded at the mines to their holding capacity; that when the cars are received by the Monon at Gosport Junction they are rebilled to the petitioner at Stinesville, not at mine weights, but at the marked capacity of the car, pursuant to this rule. The petitioner settles for his coal at the mines at one weight and for his freight at another and greater weight. It also appears, but for what reason is not made clear, that the Vandalia cars used in this traffic, when fully loaded, will not hold this coal to their marked carrying capacity. It appears also that the operation of this rule has resulted in much friction between the petitioner and the Monon Company, and that the difference in weight and resulting increased freight charges has amounted to a substantial sum which is a matter of controversy between them. These cars are furnished by the Vandalia Company at the request of the mine operator and are delivered to and accepted by the Monon from the Vandalia at Gosport Junction for delivery to the petitioner. Petitioner has nothing to do with the selection of the car or control over the loading or billing. This rule was put in operation for the purpose of preventing the transportation of short-weight loads at carload rates and for the purpose of obtaining the maximum of revenue and service with the equipment used, and when applied to accomplish such purposes, the Commission finds the rule to be a reasonable one, provided it does not interfere with the carrier's duty to furnish cars in reasonable time and quantity to meet the demands of all for the light as well as the heavy loads.

Second. On the question of the coal rates the proof shows that

the Monon has an agreement with the Vandalia Line whereby it takes its coal trains from these coal fields from Switz City to Gosport Junction over the Vandalia Line, at the rate of 65 cents per train mile, and that the average cost per ton of coal to the Monon, on account of the use of these tracks, is $6\frac{1}{2}$ cents. The distance from Switz City to Gosport Junction is substantially thirty-five miles; the Monon gets its coal from the mines in the Linton district, which average about ten miles from Switz City, and hauls the coal over the tracks of the Illinois Central, where it has a wheelage agreement in force, and that the cost of taking coal from these mines to Switz City over the Illinois Central, on account of this agreement, is 27-10 cents per ton. Such of the coal hauled by the Monon, as petitioner receives, is hauled over this route to its line at Gosport Junction, and is then delivered on its own line at a total charge of 80 cents per ton. The coal hauled by the two respondents is obtained on the Vandalia Line at substantially the same distance from Gosport Junction and is delivered to the Monon at the latter point. The through rate on this coal is 95 cents per ton. The Vandalia hauls the coal from the mines to Gosport Junction, a distance of substantially forty-five miles, and receives 35 cents per ton, and the Monon delivers it at Stinesville, a distance of substantially five miles, and receives 60 cents per ton. The proof also shows that the coal which accumulates at Gosport Junction, for points south on the Monon Line, is all handled by a local freight and switching crew, which operates daily between Bloomington and Gosport Junction, in serving some fifty industries located on that portion of the Monon Line. The proof shows that the Monon has other joint coal rates in force to various points within and without the State, all of which have been in force for many months, and are, therefore, presumably remunerative. From an examination of these schedules, which are in evidence, we find the following results as to rates as compared with the rates complained of in this case.

FROM LINTON AND BRAZIL DISTRICTS.

To Points Indicated Below.	Total Miles.	Through Rate, Cents Per Ton.	Monon.		Van- dalia.		Big Four.		Junction Points.
			Miles.	Division, Cents Per Ton.	Miles.	Division, Cents Per Ton.	Miles.	Division, Cents Per Ton.	
Stinesville, Ind.	50	95	5	60	45	35	...	*	Gosport.
Chicago, Ill.	217	80	180	60	37	20	...	...	Limedale.
Hammond, Ind.	196	80	159	60	37	20	...	...	Limedale.
Michigan City, Ind.	189	80	152	60	37	20	...	...	Limedale.
Cherry Grove, Ind.	47.3	90	6.3	60	41	30	...	...	Crawfordsville.
Crawfordsville, Ind.	70	70	33	50	37	20	...	...	Limedale.
Rensselaer, Ind.	115	125	74	87	41	38	...	...	Crawfordsville.
Porter, Ind.	195	105	149	50	...	...	20	20	*Greencastle and Dyer.
Joliet, Ill.	200	100	149	50	...	...	20	20	*Greencastle and Dyer.
Ladoga, Ind.	40	60	20	35	...	...	20	25	Greencastle.
Delphi, Ind.	92	90	25	40	67	50	...	...	Frankfort.

* Bal. Miles and Rate to E. J. & E.

The items which make up the foregoing statement are taken at random from the schedules in evidence in the cause and are such as the Monon has used for many months and point unerringly to but one conclusion, and that is that its proportion of the joint rate to Stinesville is excessive. This conclusion is also sustained by the other evidence heard by the Commission.

CONCLUSIONS.

First. The difficulty concerning the rule involved in this case is not inherent in the rule, but in its interpretation and enforcement as practiced by the Monon. The rule is just and fair, but it has been interpreted and applied in an unlawful and unjust manner. The Commissioner concludes, as a matter of law, that in no case can this rule be enforced when the car is fully loaded and fails to hold the marked capacity. The Commission also concludes, as a matter of law, that when the Monon accepts these cars from the Vandalia at its junction point it is compelled to deliver the same at the mine weights at which they were billed out by the Vandalia, subject, of course, to verification. If the Monon desires to enforce this rule against its connecting lines it can do so only by refusing to receive the cars. When it does accept the cars, as

between it and the shippers, who are at the mercy of the carrier as to the capacity of cars furnished, it must deliver the same at the consignor's weights as approved by the initiating line, subject to verification and readjustment in case of error in weight or billing. The Commission refuses to approve an interpretation of this rule which will place it in the power of the carrier to charge for more than it performs and to do so pursuant to a rule promulgated by the carrier, the enforcement of which is exclusively vested in the carrier and in which the consignee has no voice. When on its own line the Monon can control its loads under this rule by its enforcement upon the consignor, but when it accepts a load from its connecting lines it, by law, approves the agreement made between the consignor and the initiating line at the point of origin. It can escape this agreement only by refusing the load. It can not say that it will continue the shipment only on certain conditions, and then proceed to performance under those conditions, without the consent, and possibly without the knowledge of the consignor, who made the contract for the through business, which it thus accepts and approves when it takes the car on its line without a change in the initial agreement.

Suffern, Hunt & Co. vs. I., D. & W., 7 I. C. 282.

Second. Upon the subject of the joint rate it is the conclusion of the Commission that the petitioner's contention should be sustained, and the rate reduced to 80 cents, and that the rate so reduced should be divided between the carriers as follows: To the Vandalia Line 35 cents and to the Monon 45 cents. The question of the rate of 80 cents from the Greene County coal fields to Stinesville as a single rate, and the question of the division of the joint rate as between these two carriers has not been considered or determined in this proceeding other than as requested by the petitioner.

No. 8. Romona Oolitic Stone Company v. Chicago, Indianapolis & Louisville Railway Company.

Walter Kessler for the petitioner.

E. C. Field for the respondent.

1. This was a verified petition by the petitioner charging that the respondent failed to perform its duty to the petitioner in furnishing cars for the shipment of manufactured stone produced at the petitioner's quarries and stone mills located on the respondent's line.

2. After a full hearing of the cause, the Commission found that the petition was not sustained. The facts and conclusions of the Commission are set forth in the following opinion:

McAdams, Commissioner.—This is a proceeding by the petitioner against the respondent charging, in substance, that the respondent fails to furnish petitioner cars for loading out manufactured stone, which is produced at the petitioner's quarries and stone mills on the respondent's line. The essential complaint is that the petitioner frequently has small loads for out shipment, and at such time respondent would have cars, in the vicinity of the petitioner's mills, which were of large carrying capacity, which could have been used to transport petitioner's product, but that respondent refused to permit the use of such cars on account of their large carrying capacity, and compelled petitioner to delay shipments until cars of a less carrying capacity were on hand, and that the enforcement of this regulation by the respondent has resulted in insufficient service to the petitioner and a denial of its rights under the laws of this State.

After hearing the evidence the Commission finds that the respondent did enforce such regulation, and in the opinion of the Commission such regulation is not an unreasonable one, as the right of the carrier to so regulate the distribution of its equipment as to be able to handle the maximum amount of tonnage, must be recognized. However, the carrier is also under obligation, in such distribution of its equipment, to serve all of its patrons equally and without unreasonable delay. If to so serve

its patrons it becomes necessary to use cars of large capacity for small loads, then the carrier would be under obligation so to do, to the end that no one's business should be unreasonably delayed or subjected to undue prejudice. It appears in this case that the respondent had in force a rule requiring all cars for out shipment to be requisitioned in writing the night before the car was to be loaded. The notice gave the capacity of the car required and point of destination. On the succeeding day a special stone train was run over the route where the petitioner's mills and some fifty other mills and industries are located, and the cars called for on the preceding day were set in and the loads of the preceding day taken out. It appears that all cars were usually supplied on the succeeding day after demanded. Sometimes a delay of one day would intervene, but the Commission is satisfied that these delays were not caused by any desire on the part of the respondent to not serve petitioner expeditiously and without discrimination, but were wholly caused by the delay incident to the nature and complex character of the business in hand and the numerous and complex duties devolving upon respondent, in serving its entire patronage in that territory. These delays were such only as are incident to the transportation business, as well as all other large undertakings, and must be sustained by all alike at some time.

Such being the conclusion of the Commission, this cause should be and is accordingly dismissed.

No. 9. Romona Oolitic Stone Company v. Chicago, Indianapolis & Louisville Railroad Company.

Walter Kessler for the petitioner.

E. C. Field for the respondent.

1. This was a verified petition on the part of the petitioner charging that the respondent's rate on coal over its line from the Greene County coal fields to Stinesville, Indiana, were excessive.

2. The rate complained of was 80 cents per ton, and the Commission, after a full hearing, reduced the rate to 50 cents per ton. The rate in question was one of a group of rates extending through the stone industry on respondent's line from

Gosport to Bedford, Indiana, and the whole subject of the reasonableness of coal rates to that group was considered by the Commission.

3. This cause was appealed by respondent to the Appellate Court. However, on July 2, 1906, the respondent revised the coal tariffs on its entire line and confirmed the rate fixed by the Commission for this industrial group at 50 cents, and on October 6, 1906, the respondent filed such tariff with the Commission, and it was approved by the Commission and the appeal to the Appellate Court was on that day dismissed.

4. The facts appearing in this cause and the conclusion of the Commission thereon are set forth in the following opinion:

McAdams, Commissioner.—In this cause the petitioner complains of a rate on coal from mines in the Linton District to Stinesville on the respondent's main line. The rate charged is 80 cents per ton. The coal is hauled over three lines of railway from the mines to its destination. The mines are located on the Illinois Central Railway, and the haul over that line is to Switz City, a distance approximating ten miles; from Switz City the traffic moves over the Vandalia Line to Gosport Junction, a distance approximating 35 miles; from Gosport Junction the coal is delivered by the respondent over its main line to Stinesville, a distance approximating five miles; making a total haul of 50 miles, and a rate of 16 miles (\$0.016) per ton mile.

While the traffic moves over three lines of railroad, the service is all performed by the respondent. The respondent operates its coal trains over the Illinois Central Railroad from the mines to Switz City under an agreement whereby it pays a certain rental for the use of the Central Company's tracks and for water privileges and also contributes to the common expense of maintenance of way and taxes. The equipment used and the expense of train movement are all furnished and sustained by the respondent. During the year ending June 30, 1905, the respondent hauled from the mines to Switz City 459,807 tons of coal. The expense of moving this traffic, a reasonable income on the investment in equipment, depreciation in value of the equipment and general expenses, may be itemized as follows:

Rental paid Illinois Central Co.....	\$2,355 66
Portion of maintenance of way, etc. (paid Illinois Central Co.)	8,784 22
Portion of taxes (paid Illinois Central Co.).....	931 59
Pay-roll of train crew.....	4,894 23
Coal consumed by locomotives.....	7,464 60

Cost of transportation.....	\$24,430 30
Repairs to train equipment and engines.....	\$10,724 85
Five per cent. interest on $1\frac{1}{2}$ value of locomotives, at \$10,000= \$16,666, and 148 coal cars at \$725=\$107,300.....	6,198 30
One and three-tenths (1 $\frac{3}{10}$ %) per cent. of \$146,801, being total general expenses for year, and being the ratio of cost of transportation above to total cost of transportation for year.	1,908 41
Depreciation in value of locomotives, 5 per cent.....	833 30
Depreciation in value of coal cars, 7 per cent.....	7,511 00

Cost of transportation, repairs, income and depreciation, etc.	\$51,606 16
Total movement, 459,807 tons; cost per ton, \$0.112.	

The respondent operates its coal trains from Switz City to Gosport Junction over the Vandalia Line under an agreement to pay 65 cents per train mile. During the year ending June 30, 1905, respondent hauled 345,820 tons of coal from Switz City to Gosport Junction under this agreement. The equipment used and expense of train movement were furnished and sustained by the respondent. The expense of moving this traffic, reasonable income on the investment in equipment, depreciation in value of equipment and general expenses may be itemized as follows:

Train fees paid Vandalia.....	\$17,394 07
Pay-roll of train crews.....	5,636 69
Coal consumed by locomotives.....	5,932 92

Cost of transportation	\$28,963 68
Repairs to train equipment and engines.....	6,767 48
Five per cent. interest on value of locomotives, 1.1 at \$12,000= \$13,200, and 554 cars at \$725=\$40,165.....	2,668 25
One and 55-100 per cent. of \$146,801, being total general ex- pense for year, and being the ratio of cost of transporta- tion above to total cost of transportation for year.....	2,275 41
Depreciation in value of locomotives, 5 per cent.....	660 00
Depreciation in value of coal cars, 7 per cent.....	2,811 55

Cost of transportation, repairs, income and depreciation...	\$44,146 37
Total movement, 345,820 tons; cost per ton, \$0.127.	

The foregoing calculations are based upon the following, among other, facts appearing in the evidence:

Value of coal cars.....	\$725 00
Annual average repairs to same.....	49 65
Average life of car, 15 years.	
Value of locomotives used on I. C. track, each.....	\$10,000 00
Annual average repairs to same.....	2,025 99
Average coal consumption per day, 10 tons.	
Value, per ton.....	\$1 43
Value of locomotives used on Vandalia Line.....	\$12,000 00
Average annual repairs to same.....	3,652 61
Coal consumption, per day, 11.5 tons.	
Value, per ton.....	\$1 47
Average life of locomotives, 20 years.	

The average carrying capacity of coal cars is 34 tons; the number of loaded cars necessary to carry coal to Switz City 13,520. An allowance of two days' free time for loading and one day going from Switz City to the mines and one day coming from the mines to Switz City, makes four days to the car, or 54,080 car days, which reduced back to cars in annual service on this line gives 148 cars as the portion properly chargeable to this particular part of the service for the year. The pay-roll shows 313.5 days of service per train crew for the year. Upon this basis it required 522 days of service, or one crew and engine full time and one crew and engine two-thirds time to perform the service. The number of cars required to move the coal from Switz City to Gosport Junction is 10,171, and allowing two days for the movement and returning the empties we have 20,342 car days, which gives 55.4 cars for the whole year's service. In this latter service 351 round trips were made in the year, being 70 miles per trip, and required full time, 313 days for one crew and one-tenth time for second crew. These calculations cover the entire expense of doing the business, except the taxes on the value of the equipment in use, \$156,665, and the cost of oil, waste and sand, and other engine and car supplies, other than repairs, which are not shown by the evidence.

The respondent has some 50 industries and various mines on its track between Bloomington and Gosport Junction, a distance of 16 miles. The local work of setting in empties and taking out loaded cars and delivering them from and to Bloomington and

Gosport is performed by what is known as the stone-train. In the month of June, 1905, this train handled 638 loaded and 298 empty cars in making 30 round trips over the road between those two points. The total car mileage of the loaded cars was 3,868 miles; the average car mileage for all the loaded cars 6.06 miles. The average number of cars handled each day was 31.2. The average number of cars handled by the train each way was 15.6. The per diem of the train crew operating this train was \$461.94 for the month, making an expense on that account of 11.9 cents per loaded car per mile. The distance to Gosport Junction from Stinesville, being taken at five miles, would make an expense of the train crew for hauling coal between those two points 59.5 cents, or 1.75 cents per ton on an average car of 34 tons. The evidence does not show any other items of expense, charges, or the value of property invested in doing business on the main line.

The evidence further shows that respondent has a group rate on this coal effective from Stinesville to Bedford; that the traffic for points from Stinesville to Bloomington moves via Switz City and Gosport and to points from Bedford to Bloomington via Switz City, Bloomfield and Bedford. There are stone and other industries located along this entire group, which are engaged in competitive industries, and respondent makes the rate the same for the purpose of maintaining equal prices and opportunity throughout the competitive field. The minimum haul via Gosport is 50 miles; the maximum haul 60.5 miles; the minimum haul via Bedford is 52 miles; the maximum haul 73 miles. The average haul for the entire group is 59 1-3 miles.

The evidence further shows that the respondent's track from Switz City to Bedford via Bloomfield is in bad condition; that there are many very steep grades, and that it is necessary in moving this traffic over that line to have the train crew double quite a number of hills, and in many cases to have the help of an additional engine. The evidence is not full and complete upon the subject of the additional expense occasioned on account of these excessive grades and poor condition of track. However, it appears that the expense of moving this traffic over that line is in excess of the expense of moving it via Switz City, the

Vandalia and Gosport, and that this additional expense will possibly be 25 per cent. in addition to the expense of movement via the northern route, applicable to service of train crew and coal consumed, and being about one-fourth of the total items of expense and earnings as above noted or 6.25 per cent. of the total cost.

A tabulation of coal rates from respondent's and other coal tariffs in evidence, taken at random from the schedules, to competitive and noncompetitive points, and also the group rate mentioned, reduced to mills per ton mile, shows the following:

COAL RATES.

TO COMPETITIVE POINTS.

Mines on Route.	Date of Tariff.	From	To	Miles.	Rate per Ton, cts.	Rate per Ton Mile in mills.
Monon	8-10-04	Victoria (Linton District)	Stinesville	50	80	16.
Monon	10-1-03	Victoria (Linton District)	Ladoga	91	60	6.6
Monon	11-1-03	Victoria (Linton District)	Frankfort	208	80	3.8
Monon	10-1-03	Victoria (Linton District)	New Albany	122	80	6.5
Frisco	5-16-05	Brazil	Kokomo	130	60	4.6
Frisco	7-6-03	Brazil	Hammond	140	85	6.
Frisco	9-20-05	Mecca	Hillsboro	35	65	18.
Southern	10-23-05	Ayrshire	Evansville	64	40	6.2
Southern	10-23-05	Ayrshire	New Albany	84	50	5.9
Southern	10-23-05	Cannelton	Oakland City	60	45	7.5
Southern	10-23-05	Boonville	Princeton	67	40	6.
Vandalia	11-14-05	Brazil	Indianapolis	57	50	8.7
Vandalia	11-14-05	Brazil	Greencastle	18	40	22.
Vandalia	11-14-05	Brazil	Crawfordsville	69	60	8.7
Vandalia	11-14-05	Brazil	Frankfort	95	75	8.
Average for 15 rates				86	60 ²³	9.

TO NON-COMPETITIVE POINTS.

Monon	8-10-05	Victoria	Stinesville	50	80	16.
Monon	8-10-05	Victoria	Bloomington	62	80	11.
Frisco	5-23-05	Mecca	Wadena	71	70	10.
Frisco	5-23-05	Mecca	LaCrosse	125	70	5.6
Frisco	5-23-05	Mecca	Winthrop	48	65	13.
Frisco	5-23-05	Mecca	Attica	41	60	14.
Frisco	5-23-05	Mecca	Morocco	91	70	7.7
Southern	10-23-05	Cannelton	Marengo	73	80	10.9
Southern	10-23-05	Cannelton	Crandall	90	80	8.8
Southern	10-23-05	Ayrshire	English	46	70	15.
Southern	10-23-05	Boonville	Milltown	71	75	10.5
Southern	10-23-05	Boonville	Huntingburg	30	50	16.6
Vandalia	11-14-05	Brazil	Rockville	39	40	10.
Vandalia	11-14-05	Brazil	Culver	165	90	5.4
Vandalia	11-14-05	Brazil	Flora	113	80	7.
Vandalia	11-14-05	Brazil	Darlington	76	75	10.
Vandalia	11-14-05	Brazil	Waveland	53	50	10.
Average for 17 rates				73.2	69.7	10.6

COAL RATES.

MONON 30-CENT GROUP—BEDFORD TO GOSPORT JUNCTION.

From Linton via Gosport Junction,			From Linton via Bloomfield,		
To	Miles.	Ton mills.	To	Miles.	Ton mills.
Stinesville.....	50	16	Bedford.....	52	15.3
Breyfogle.....	54	14.8	Horseshoe Bend.....	54.5	14.7
Ellettsville.....	55	14.5	Thornton.....	54	14.8
Woods.....	57.5	13.9	Logan.....	57	14.
Hunters.....	60	13.3	Guthrie.....	60	13.3
Bloomington.....	62.5	12.7	Harrodsburg.....	63	12.7
			Smithville.....	68.5	11.6
			Ketchams.....	69	11.6
			Clear Creek.....	73	10.9
			Average 15 rates.....	59½	13.6

Although this action does not directly involve the group rate on respondent's line, still that rate being based upon the theory of equality of opportunity to all the industries, the Commission should not enter an order that could not justly be made to apply to the entire group and thereby maintain the condition sought and established by respondent. Assuming that the respondent can do business over its own line as cheaply as over the leased lines, and that it is not entitled to a greater income on account of its property and expenses for maintenance and taxes than the leased lines secured for theirs by the rental and train agreements, and assuming that the traffic may be moved from Gosport to Bloomington for the same price as from Switz City to Gosport, being only one-half the distance, and from Switz City, via Bloomfield and Bedford, to Bloomington at the same price as from Switz City via Gosport to Bloomington, with the expenses of excessive grades noted above duly considered, we may make up the total expenses and reasonable income for the maximum hauls as follows:

Northern Route:		
Mines to Switz City, per ton.....	(10 miles)	11.2 cents
Switz City to Gosport, per ton.....	(35 miles)	12.7 cents
Gosport to Bloomington, per ton.....	(16 miles)	12.7 cents
Totals	(61 miles)	36.6 cents
Southern Route:		
Mines to Switz City, per ton.....	(10 miles)	11.2 cents
Switz City to Clear Creek.....	(73 miles)	25.4 cents
6.25 per cent. additional expense on account of grades on haul, Switz City to Clear Creek....		1.58 cents
Totals	(83 miles)	38.18 cents

Northern Route	61 miles	36.6 cents
Southern Route	83 miles	38.18 cents
<hr/>		
Total	144 miles	74.78 cents
Average	72 miles	37.39 cents

Coal is the life of the industrial enterprises conducted in the territory affected by this rate. The coal is, comparatively speaking, located at the factories and mills. The consumer has the right to insist that the advantages accruing on account of location shall be preserved to him. For every ton of coal carried into these industries, the respondent takes out many tons of product, and this has been heretofore ruled by this Commission, at the request of the carriers concerned, as a legitimate reason for carrying a low rate upon the coal consumed in producing the outbound business. We know from common knowledge and the tariffs on file with the Commission, that the carriers entering Indianapolis from these same coal fields, and others on the western border of the State, carry a coal rate of 50 cents per ton, and that the entire "Gas Belt" has a rate on manufacturers' coal of 60 cents per ton. If these rates can be maintained on account of competition and outbound business, and for these distances, can it in reason or justice be said that consumers much nearer the mines shall pay more? No reason suggests itself to me for so holding, and the results to follow the recognition of such a discrepancy in rates to various industrial districts, do not satisfy the requirements of the law or absolve the Commission from its obligation to "correct abuses and prevent unjust discrimination and extortion in the rates of freight," and especially is this true when it is shown, as in this case, that the expense of performing the service, repairs and renewals, and a reasonable income on the investment, do not approach the rates charged for the service.

Under all the circumstances of the case the rate should not exceed 50 cents per ton to Stinesville, and to obtain that rate it is necessary to add 33.7 per cent. to the cost of doing the business and reasonable income on the investment, calculated upon the longest haul in the group in question, as shown by the foregoing calculations. This addition will certainly more than cover any items of expense omitted from the calculations or extra service not detailed in the evidence, and it may safely be said to be suffi-

cient to cover any difference in expenses in operating over the respondent's own line and the leased lines. This rate will amount to ten mills per ton mile to Stinesville and a rate of eight mills per ton mile to the entire group affected by this rate, and it is not out of proportion, concerning out-bound business, to other rates for like service upon other lines.

No. 10.—*Ex parte, Indiana Harbor Railroad, and Chicago & Indiana Air Line.*

1. Application for the approval of plans and inspection of construction and operation of an interlocking plant at the crossing of these railroads at East Chicago.

2. The Commission appointed its consulting engineer to examine the plans and inspect the construction and operation of the plant. Upon his report coming in the plans and plant were approved and notices issued authorizing the operation of trains over this crossing without stopping after September 7, 1905.

No. 11.—*Ex parte, Indiana Harbor Railroad, and Chicago & Eastern Illinois R. R. Co.*

1. Application for the approval of plans for an interlocking machine at the crossing of these railroads at Morocco, Indiana. The plans were referred to the Commission's consulting engineer, and upon his report being filed the plans were approved.

2. Subsequently the companies petitioned for an inspection of the construction and operation of the plant, and the consulting engineer having examined and approved the same, the Commission thereupon approved the plant and issued notices authorizing the operation of trains over the crossing without stopping after January 6, 1906.

No. 12.—*Ex parte, Indiana Harbor Railroad, and Chicago Indianapolis & Louisville Ry.*

1. Application for the approval of plans for an interlocking machine at the crossing of these railroads at St. John, Indiana. The plans were referred to the Commission's consulting engineer, and upon his report being filed the plans were approved.

2. Subsequently the companies petitioned for an inspection of

the construction and operation of the plant, and the consulting engineer having examined and approved the same, the Commission thereupon approved the plant and issued notices authorizing the operation of trains over the crossing without stopping after December 9, 1905.

No. 13.—*Ex parte, Indiana Harbor Railroad, and Chicago & Eastern Illinois R. R. Co.*

1. Application for the approval of plans for an interlocking machine at the crossing of these railroads at Stewart, Indiana. The plans were referred to the Commission's consulting engineer, and upon his report being filed the plans were approved.

2. Subsequently the companies petitioned for an inspection of the construction and operation of the plant, and the consulting engineer having examined and approved the same, the Commission thereupon approved the plant and issued notices authorizing the operation of trains over the crossing without stopping after February 6, 1906.

No. 14.—*Ex parte, Indiana Harbor Railroad Co., and Cleveland, Cincinnati, Chicago & St. Louis Ry. Co.*

1. Application for the approval of plans for an interlocking machine at the crossing of these railroads at Sheff, Indiana. The plans were referred to the Commission's consulting engineer, and upon his report being filed the plans were approved.

2. Subsequently the companies petitioned for an inspection of the construction and operation of the plant, and the consulting engineer having examined and approved the same, the Commission thereupon approved the plant and issued notices authorizing the operation of trains over the crossing without stopping after January 25, 1906.

No. 15.—*Ex parte, Indiana Harbor Railroad Co. and Lake Erie & Western Ry. Co.*

1. Application for the approval of plans for an interlocking machine at the crossing of these railroads at Handy, Indiana. The plans were referred to the Commission's consulting engineer, and upon his report being filed the plans were approved.

2. Subsequently the companies petitioned for an inspection of the construction and operation of the plant, and the consulting engineer having examined and approved the same, the Commission thereupon approved the plant and issued notices authorizing the operation of trains over the crossing without stopping after January 2, 1906.

No. 16.—*Ex parte, Indiana Harbor R. R. Co., and Illinois Central Railroad Company.*

1. Application for the approval of plans for an interlocking machine at the crossing of these railroads at Sloan, Indiana. The plans were referred to the Commission's consulting engineer, and upon his report being filed the plans were approved.

2. Subsequently the companies petitioned for an inspection of the construction and operation of the plant, and the consulting engineer having examined and approved the same, the Commission thereupon approved the plant and issued notices authorizing the operation of trains over the crossing without stopping after January 9, 1906.

No. 17.—*Ex parte, Indiana Harbor R. R. Co., and New York, Chicago & St. Louis R. R. Co.*

1. Application for the approval of plans for an interlocking machine at the crossing of these railroads at Osborne, Indiana. The plans were referred to the Commission's consulting engineer, and upon his report being filed the plans were approved.

2. Subsequently the companies petitioned for an inspection of the construction and operation of the plant, and the consulting engineer having examined and approved the same, the Commission thereupon approved the plant and issued notices authorizing the operation of trains over the crossing without stopping after December 29, 1905.

No. 18.—*Ex parte, Indiana Harbor R. R. Co., and Grand Trunk Western Ry. Co.*

1. Application for the approval of plans for an interlocking machine at the crossing of these railroads at Hays, Indiana. The plans were referred to the Commission's consulting engineer, and upon his report being filed the plans were approved.

2. Subsequently the companies petitioned for an inspection of the construction and operation of the plant, and the consulting engineer having examined and approved the same, the Commission thereupon approved the plant and issued notices authorizing the operation of trains over the crossing without stopping after November 8, 1905.

No. 19.—*Ex parte, Indiana Harbor R. R. Co., and Chicago & Erie R. R. Company.*

1. Application for the approval of plans for an interlocking machine at the crossing of these railroads at Highlands, Indiana. The plans were referred to the Commission's consulting engineer, and upon his report being filed the plans were approved.

2. Subsequently the companies petitioned for an inspection of the construction and operation of the plant, and the consulting engineer having examined and approved the same, the Commission thereupon approved the plant and issued notices authorizing the operation of trains over the crossing without stopping after December 9, 1905.

No. 20.—*Ex parte, Indiana Harbor R. R. Co., and Indiana, Illinois & Iowa R. R. Co.*

1. Application for the approval of plans for an interlocking machine at the crossing of these railroads at Schneider, Indiana. The plans were referred to the Commission's consulting engineer, and upon his report being filed the plans were approved.

2. Subsequently the companies petitioned for an inspection of the construction and operation of the plant, and the consulting engineer having examined and approved the same, the Commission thereupon approved the plant and issued notices authorizing the operation of trains over the crossing without stopping after February 2, 1906.

No. 21.—*Chicago & Erie Railroad Company v. Grand Rapids & Indiana R. R. Co., Cincinnati, Richmond & Fort Wayne R. R. Co., and Toledo, St. Louis & Western R. R. Co.*

W. O. Johnson for the petitioner.

J. H. Campbell and G. W. Ross for Pennsylvania Lines.

Braden Clark for the Clover Leaf.

1. This is an application by the petitioner to require the construction of an interlocking machine at the crossing of these lines at Decatur, Indiana. The questions involved being similar to those involved in cause No. 1, ante, the same were decided in a similar manner, excepting that only one interlocking machine was ordered.

2. The Commission ordered the construction of an electric machine, and assigned the construction, maintenance and operation of the same to the petitioner. The Pennsylvania Lines appealed the cause to the Appellate Court, but the appeal was dismissed on January 29, 1906 (78 N. E. 358) for the reason that no appeal would lie from the Commission to that court in such a proceeding. Pending the appeal the petitioner did nothing toward constructing the machine, and the questions at issue being similar to those involved in cause No. 1, which is now pending in the Supreme Court, as indicated ante, No. 1, the Commission, on July 20, authorized the petitioner to suspend action towards the construction of a machine until such litigation was determined. On October 23, 1906, the Supreme Court overruled a petition to transfer this cause from the Appellate Court to the Supreme Court.

No. 22.—*Pittsburg, Cincinnati, Chicago & St. Louis Ry. Co. v. Muncie & Portland Traction Co.*

G. E. Ross for petitioner.

Frank H. Snyder for respondent.

1. This was an application by the petitioner requesting the Commission to supervise and control the construction of a crossing by the respondent over its line at Redkey.

2. The respondent objected to the jurisdiction of the Commission over the subject matter, and after oral argument before the Commission, the respondent's objections were sustained and the petition dismissed. Conclusions of the Commission appear in the following opinion:

McAdams, Commissioner.—This is an application, filed by the petitioner, requesting the Commission to supervise and control the construction of a crossing, by the respondent, of its road over or under the line of the petitioner's road at Redkey, in this

State. It appears that the petitioner is a steam railway organized under the general railroad laws of Indiana, and that its line of railroad passes through the town of Redkey, in this State, at grade, and that it has been in operation for many years. It appears that the respondent is a corporation organized under the laws of this State providing for the construction of street railroads, as amended so as to provide for the construction of interurban roads. The respondent is now constructing its line from Muncie to Portland by the way of Redkey, and proposes to cross the petitioner's line at grade on one of the streets in Redkey, and proposes to operate its line with electricity and to carry freight and passengers.

The respondent, by its special objections to the petition, filed under the rules, assails the jurisdiction of the Commission to hear or determine the controversy tendered by the petition.

The respondent suggests two reasons for its contention: first, that the law creating the Commission exempts street railroads from the provisions of the act, excepting the supervision of interlocking devices in proper cases; second, that the Commission has no authority to exercise the jurisdiction here invoked, when to do so would involve the rights or interests of the public in the streets of a town or city.

The conclusion of the Commission upon the first of these propositions makes it unnecessary to consider the question involved in the second.

The jurisdiction of this Commission is fixed by the Act, approved February 28, 1905 (Acts 1905, p. 83). Upon the particular question here involved the jurisdiction of the Commission is defined in Section 3 of the Act as follows: * * * "to supervise the crossing of the tracks and side tracks of railroads by other railroads now in process of construction or extension, or which may hereafter be constructed or extended, and to prescribe the terms and conditions and manner in which such crossing shall be made; and the character thereof whether at grade or over or under grade, and the authority now vested in the Auditor of State, under the laws of this State, with reference to the crossing of railroads by other railroads or by railroads operated by electricity and the installation and maintenance of interlocking

apparatus at such crossings is hereby vested in the Commission."
* * *

The first paragraph of Section 21 of the Act in review, defines what the term "railroad" shall be held to include, and the definition, standing alone, is ample enough to justify a holding that the first paragraph of that part of Section 3, above quoted, confers jurisdiction to hear and determine this controversy, and we think this is true regardless of the distinction between steam railroads and electric street railroads as determined by the Supreme Court in *Wabash R. R. v. Ft. Wayne & Southwestern Traction Company*, 161 Ind. 310.

That portion quoted from Section 3, reading as follows: * * * "and the authority now vested in the Auditor of State under the laws of this State with reference to the crossing of railroads by other railroads or by railroads operated by electricity" * * * is without force or meaning so far as it undertakes to control the construction of one railroad across the tracks of another railroad or electric street railroad, for the reason that the Auditor of State never had any such authority by any law of this State which we have been able to discover, and we have been referred to none by petitioner. The Auditor of State would possess no such authority by virtue of his office. It could only be conferred by statute, and, not being so conferred, it did not exist in him and therefore can not come to the Commission by virtue of the meaningless language used.

The statute quoted would embrace this controversy if it stood alone, but the proviso found in Paragraph A, Section 21 of the Act, limits the operation of Section 3 upon this question, to railroads as defined by the general laws of the State and exempts street or interurban railroads from the provisions of the Act, except the authority of the Auditor of State to supervise the construction and maintenance of interlocking devices at the crossings of such railroads, is conferred upon the Commission. An examination of the statutes, which conferred authority upon the Auditor of State to supervise the construction of interlocking devices, fails to reveal any authority vested in the Auditor of State to directly supervise the crossing of one railroad over another railroad or electric railroad, or to do so as an incident to the super-

vision of interlocking apparatus. An interlocking apparatus to control the operation of a railroad crossing is not a railroad crossing within the meaning of that portion of the statute sought to be applied to this proceeding.

Such being the view of the Commission, it is without authority in this case, and the special objections to its jurisdiction are sustained within the petition is dismissed.

No. 23.—*Edward T. Slider v. Southern Railway Company.*

C. D. Kelso and Merrill Moores for petitioner.

Jno. D. Wellman for respondent.

1. This was an application by the petitioner to have the rates on coal from New Albany to points on the Southern Railway reduced, charging that the same were excessive and discriminatory.

2. After a full hearing and long consideration, the Commission sustained the petition and ordered a reduction in the rates, whereupon the respondent appealed the cause to the Appellate Court, where it is now pending. The rates in force and the reduction made by the Commission, together with the facts and conclusions of the Commission, appear in the following opinion by the chairman:

By Hunt, Chairman—The petition alleges that the petitioner, Edward T. Slider, resides at the city of New Albany, in the State of Indiana; that he is engaged in the business of wholesaling and retailing coal of all kinds at said city of New Albany and in said State of Indiana; that the respondent, the Southern Railway Company, is engaged in the business of operating a steam railroad within and through the city of New Albany and from said city of New Albany to the city of St. Louis, in the State of Missouri; that the respondent is denying to the petitioner, and to other citizens of the city of New Albany certain rights and privileges contrary to the laws of said State of Indiana in this: That it declines to transport coal for petitioner, and other citizens of New Albany, from said city of New Albany, Ind., westwardly to Duncan, or Georgetown, for less than 50 cents per ton, to Corydon for less than 70 cents per ton, to Milltown for less than 70 cents per ton, to Marengo for less than 80 cents per ton, to

English for less than 80 cents per ton, to Huntingburg for less than \$1 per ton, to Oakland City for less than \$1.20 per ton, to Jasper for less than \$1.10 per ton, to Lincoln City for less than \$1.10 per ton, to Rockport for less than \$1.20 per ton, to Boonville for less than \$1.20 per ton. That said respondent transports coal from the Indiana mines situate around and about Oakland City and Booneville, Ind., eastwardly on said road to the city of New Albany, a distance of about 100 miles, at a rate of 40 cents per ton. It appears from the evidence that the east bound rate is 50 cents instead of 40 cents. And the respondent admits that the rates westbound from New Albany and between New Albany, Boonville, Rockport, and other points named in the petition, are as alleged in said petition, but denies the jurisdiction of this Commission upon the ground that the traffic in question is interstate and not intrastate, because the coal upon which rates are asked is purchased by the petitioner beyond the borders of the State of Indiana and stored in his bins at New Albany in said state, for the purpose of supplying his customers at that place and other points throughout the State.

The Commission does not accept this proposition as the law, and if it was the law, it would almost have the effect of abolishing intrastate or local rates. When this coal is stored by the petitioner in his bins at New Albany for the purpose of supplying his customers, it becomes a part of the internal commerce of the State and must be treated as such. Therefore, the jurisdiction of this Commission is beyond question.

It does not necessarily follow that rates are discriminatory or excessive because a much higher rate is charged by a railroad for hauling traffic in one direction than is charged by the same railroad for hauling the same class of traffic the same distance in another direction. There may be and doubtless are cases where this course would be entirely justifiable. If it were apparent that the cost to the railroad company for transportation in one direction was much greater than in another direction by reason of steeper grades requiring additional power, or because of the excessive cost of any element entering into transportation, such railroad company would have a perfect right to charge a higher freight rate in the direction which makes such increased cost necessary.

This has been held to be the law both by the Supreme Court of the United States and by the Interstate Commerce Commission.

But it does not appear from the information at hand that such condition exists in this case. The cost to respondent in hauling coal west is not sufficiently greater than in hauling coal east to justify the difference in the rates complained of, or the high rate charged for westbound traffic. It is true that the volume of business is greater east than west, but even this is offset by the fact that respondent's cars after being delivered at New Albany loaded with coal from Indiana mines must be hauled back empty unless loaded at that point. Therefore, this respondent can afford to give a much cheaper rate west than the rate complained of by the petitioner. The question of how far this Commission can protect Indiana mines must be answered by construing both the letter and spirit of the statute to require us to give a reasonable rate to persons applying for it, and from the information before us it appears that the westbound rate in this case is both excessive and discriminatory. Whatever we as individuals may desire as to the interests of local mines and miners, if citizens of this State desire to use higher priced foreign coal and ask this Commission to give them a fair and reasonable rate, it is clearly our duty to give it to them.

The Commission, therefore, orders and directs that rates on coal per ton from New Albany westbound to the points named in the petition be fixed as follows:

From New Albany to—	Rate.
Duncan	35 cents
Georgetown	35 cents
Corydon	55 cents
Milltown	55 cents
Marengo	60 cents
English	65 cents
Huntingburg	70 cents
Oakland City	85 cents
Jasper	70 cents
Lincoln City	75 cents
Rockport	85 cents
Boonville	85 cents

No. 24.—*Ex parte Pittsburgh, Cincinnati, Chicago & St. Louis Railway Co., Cleveland, Cincinnati, Chicago & St. Louis Railway Company, and Central Indiana Railway Company.*

1. These companies filed plans for proposed alterations in interlocking machine at the crossing of these lines at Anderson, Ind. The plans were referred to the Commission's consulting engineer, and upon his report coming in the plans were disapproved. Subsequently amended plans were filed, referred to the engineer, and upon his approval thereof the same were confirmed by the Commission.

2. Subsequently the improvements were added to the machines and an inspection of the construction and operation of the plant made by the Commission's engineer, and upon his report coming in the plant was approved and notices issued authorizing the operation of trains over the crossing without stopping after April 9, 1906.

No. 25.—*Ex parte Southern Ry. Co., Long and Short Haul Application.*

1. This was an application by the Southern Railway Company to be permitted to charge less for hauling coal to New Albany and Evansville than it charged for hauling like coal to other stations nearer the mines. Upon petition being filed notice of its pendency and time set for hearing was published in papers in the cities of Huntingburg and English on the line of such railroad.

2. Proof of the publication of the notice was filed with the Commission and a hearing had on the date fixed, and there being no objections to the petition by any interested person along the line of the respondent's railroad, and it appearing that it was necessary for the respondent to be allowed to charge the proposed rates at New Albany and Evansville to meet competition at these points on coal off the Ohio river and from the nonunion mines of Kentucky, the prayer of the petitioner was accordingly granted.

No. 26.—*Ex parte Vandalia R. R. Co. and Wabash Railroad Company.*

1. Application for the approval of the plans and the construction and operation of an interlocking machine at the crossing of

these lines at Lakeville, Ind. The plans and the construction and operation of the plant were referred to the Commission's consulting engineer, and upon his inspection and approval of the same the plans and the plant were approved, and notice was issued authorizing the operation of trains over this crossing without stopping after February 6, 1906.

No. 27.—*Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company v. Chicago, Indianapolis & Louisville Ry. Company, and Pere Marquette Railway Company.*

G. E. Ross for the petitioner.

E. C. Field for Monon.

W. D. Trump for the Pere Marquette.

1. This was a verified petition requesting the Commission to require the construction of an interlocking machine to protect the crossing of these lines at La Crosse. The petition was heard at La Crosse, and the subject of controversy being similar to that involved in cause No. 1, ante, the same was decided in a similar manner upon that authority.

2. After the determination of the Commission the petitioner appealed the cause to the Appellate Court, where the same is now pending, but will probably be dismissed for the same reasons that the appeal in cause No. 21, ante, was dismissed.

3. The Commission assigned the construction, maintenance and operation of this plant to the petitioner, and after the taking of the appeal the petitioner presented plans for the proposed interlocking machine in accordance with the order of the Commission, and the same were approved September 17, 1906, and the plant is now in course of construction.

No. 28.—*Ex parte, Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company, Cincinnati, Chicago & Louisville Ry. Co., Chicago & Erie Railroad Company, and Illinois, Indiana & Iowa Ry. Company.*

1. Application by these companies for the approval of plans of interlocking machine at the crossing of these lines at North Judson. The plans were submitted to the Commission's consulting engineer, and upon his report coming in the plans were approved and the plant is in process of construction.

No. 29.—*Ex parte, Indiana Harbor Ry. Co., Lake Shore & Michigan S. E. R. Co., Baltimore & Ohio & Chicago R. R. Co., Chicago, Lake Shore & Eastern R. R. Co.*

1. Application by these companies for the approval of plans and the construction and operation of an interlocking plant at the crossing of these lines at Indiana Harbor. The plans were submitted to the Commission's consulting engineer, with directions to examine the construction and operation of the plant, and upon his report coming in the Commission approved the plans, also the construction and operation of the plant, and issued notices authorizing the operation of trains over this crossing without stopping after March 5, 1906.

No. 30.—*Ex parte, Lake Shore & Michigan So. Ry. Co., Chicago Junction Railway Company, Chicago Terminal Transfer Railway Company, Baltimore & Ohio & Chicago Railroad.*

1. Application by these companies for the approval of plans and the construction and operation of an interlocking plant at the crossing of these lines at Whiting, Ind. The plans were submitted to the Commission's consulting engineer, with directions to examine the construction and operation of the plans, also the construction and operation of the plant, and issued notices authorizing the operation of trains over this crossing without stopping after December 9, 1905.

No. 31.—*Ex parte, Indiana Harbor R. R. Co., and Pittsburgh, Ft. Wayne & Chicago R. R. Co.*

1. Application by these companies for the approval of plans and the construction and operation of an interlocking plant at the crossing of these lines at Indiana Harbor. The plans were referred to the Commission's consulting engineer, with directions to examine them and the construction and operation of the plant, and upon his report coming in the plans were approved, also the construction and operation of the plant, and notices issued authorizing the operation of trains over this crossing without stopping after December 9, 1905, excepting that the Commission disapproved the practice of the companies in combining the duties of the tower man, telephone man and telegraph operator in the same person at this point. After subsequent consideration of this

latter subject and a full hearing had with representatives of all the principal lines in this State, on March 6, 1906, the Commission rescinded the latter part of this order, believing it best to leave the company in charge of the operation of the plant unhampered by any rules and restrictions in this regard.

No. 32.—*Ex parte, Baltimore & Ohio & Chicago R. R. Co., and Grand Rapids & Indiana Railway Company.*

1. Application by these companies for the approval of plans for an interlocking machine for the protection of the crossing of these lines at Avilla, Ind. These plans, together with amendments subsequently filed, were referred to the Commission's consulting engineer and were by him and the Commission approved and the plant is now in process of construction.

No. 33.—*Ex parte, New Jersey, Indiana & Illinois Railroad, Grand Trunk Western Railroad, Indiana, Illinois & Iowa Railroad, and Michigan Central Railroad.*

1. Application by these companies for the approval of plans and the inspection of the construction and operation of a reconstructed plant at the crossing of these lines at S. S. & S. Junction, near South Bend. The plans were referred to the Commission's consulting engineer, with directions to examine them and the construction and operation of the plant, and upon his report coming in the Commission disapproved the plans and the construction and operation of this plant and forbid its further use and notified the companies accordingly, and the use of the plant was at once discontinued. This order was made February 6, 1906.

2. After considerable negotiation and loss of time, new and additional plans were presented and referred to the consulting engineer and were by him and the Commission approved, the plant reconstructed in accordance therewith, reinspected and approved, and notices issued authorizing the operation of trains over this crossing without stopping after July 5, 1906.

No. 34.—*Ex parte, Cleveland, Cincinnati, Chicago & St. Louis Railway Co., and Chicago & Eastern Illinois Ry. Co.*

1. Application by these companies for the approval of plans and the inspection of the construction and operation of the plant at

the crossing of these lines at Burnette. The plans were referred to the Commission's consulting engineer, with directions to examine the construction and operation of the plant, which he did, and upon his report coming in the plans were approved, also the construction and operation of the plant, and notices issued authorizing the operation of trains over this crossing without stopping after February 2, 1906, excepting that the Commission reserved the right to thereafter require the guard rails used in this plant to be removed.

No. 35.—*Ex parte, Michigan Central R. R., and Pittsburgh, Ft. Wayne & Chicago R. R.*

1. Application by these companies for the approval of plans and the inspection of the construction and operation of the plant at the crossing of these lines at Tollestone. The plans were referred to the Commission's consulting engineer, with directions to examine the construction and operation of the plant, which he did, and upon his report coming in the plans were approved, also the construction and operation of the plant, and notices issued authorizing the operation of trains over this crossing without stopping after February 17, 1906, excepting that the Commission reserved the right to thereafter require the guard rails used in this plant to be removed.

No. 36.—*Wilson E. Horn v. Chicago, Indianapolis & Louisville Ry Co.*

J. F. O'Brien for the petitioner.

E. C. Field for the respondent.

1. This was a verified petition requesting the Commission to reduce the rates on coal from points on the respondent's line to Cloverdale, Ind., and from Greencastle and Limesdale, Ind., to Cloverdale, Ind.

2. The rates in force from Victoria and vicinity to Cloverdale were 90 cents, which the Commission reduced to 50 cents, and the proportional rate from Limesdale and Greencastle to Cloverdale on coal off the Big Four and the Vandalia at those points was 60 cents, which the Commission reduced to 35 cents.

3. The respondent appealed from the order of the Commission

made in this cause to the Appellate Court. However, on October 6, 1906, pending the appeal, the respondent published a new tariff carrying a rate on coal into Cloverdale from Victoria of 50 cents, in accordance with the Commission's order, and published a new proportional coal tariff from Greencastle and Limerdale to Cloverdale of 50 cents a ton, and filed such new tariff with the Commission. The Commission approved the tariffs filed and amended its order made theretofore accordingly, and thereupon the appeal was dismissed.

4. The facts appearing in this cause and the conclusions of the Commission thereon appear in the following opinion:

FINDINGS AND CONCLUSIONS OF THE COMMISSION.

By Wood, Commissioner.—It is alleged by the petitioner that the rate on coal from Linton to Cloverdale is 90 cents a ton, and the rate on coal from Brazil and Coal Bluff to Cloverdale is 85 cents a ton. It is alleged also that these rates are unreasonable, and this contention is denied by the respondent.

We find that the rate is as stated in the petition, 90 cents from Linton mines, and 85 cents from Brazil and Coal Bluff mines to Cloverdale.

A glance at the geological map of the State shows that Cloverdale is situate just in the border and very near to the coal fields of the State, which contain and yield bituminous coal in inexhaustible quantities. The railroad distance from Linton to Cloverdale is 55.7 miles, and from Brazil to Cloverdale is 26.2 miles, and from Coal Bluff to Cloverdale is 31.3 miles. The proximity of Cloverdale to coal in the same State in the same neighborhood, and the short haul entitles its consumers to a low rate.

When we make comparisons with other rates disclosed in the evidence in this case, and those known to the Commission from other investigations, and such comparisons are often, and sometimes necessarily, made in fixing rates, it clearly appears that the coal rates to Cloverdale are out of line. The rate from Linton to Greencastle, 11.4 miles farther, on the same railroad, in the

same direction from Cloverdale, is 60 cents a ton; from Linton to Chicago, 292.4 miles, 80 cents a ton; from Linton to South Bend, 292 miles, 95 cents a ton, Linton to Fort Wayne, 281.4 miles, \$1.10 a ton, and the group rate to Terre Haute, extending from 10 to 50 miles from that city, 30 cents a ton; coal rates from Oakland City and Boonville to New Albany, more than 100 miles, are 50 cents a ton; and these comparisons might be extended to many other points. We may consider the cost of this service, and make full allowance for all differences of competition, distance, character of service, and all other considerations properly entering into the making of rates, and still it appears the rates complained of in this hearing are unreasonable and unjust.

We conclude that a reasonable and fair rate from Linton, or mines in the Linton territory, to Cloverdale is 50 cents a ton, and from Limesdale to Cloverdale is 35 cents a ton, and an order will be entered against the respondent fixing the rates in accordance with the conclusions above stated.

No. 37.—*Ex parte, Chicago & Eastern Illinois Railroad Company, and Cincinnati, Indianapolis & Western Railroad Company.*

1. Application by these companies for the approval of plans and the construction and operation of the plant for the protection of the crossing of these railroads at Hillsdale.

2. The plans were referred to the Commission's consulting engineer, with directions to inspect the same and the construction and operation of the plant. Upon his report coming in the plans and plant were approved and notices issued authorizing the operation of trains over this crossing without stopping after February 26, 1906.

No. 38.—*Ex parte, Evansville & Terre Haute Railroad Company, long and short haul application.*

1. This is an application by this company to be permitted to charge less for hauling coal from mines on its line to Terre Haute, Vincennes, Mt. Vernon and Evansville than it charged for hauling to intermediate stations nearer the mines.

2. Upon the petition being filed, notice of the pendency and time set for hearing the same was published in the Evansville Banner News, and upon proof of notice being filed, the date set for hearing, and no objections to petition being presented, and the Commission being satisfied that on account of competition at these points it is necessary for the petitioner to be allowed to charge the proposed rates, the prayer of the petition was accordingly granted.

No. 39.—*Ex parte, Evansville & Indianapolis Railroad Co., long and short haul application.*

1. This is an application by this company to be permitted to charge less for hauling coal from mines on its line to Terre Haute, Evansville and Mt. Vernon than it charged for hauling to intermediate stations nearer the mines.

2. Upon the petition being filed, notice of the pendency and time set for hearing the same was published in the Evansville Journal News, and upon proof of notice being filed, the date set for hearing and no objections to petition being presented, and the Commission being satisfied that on account of competition at these points it is necessary for the petitioner to be allowed to charge the proposed rates, the prayer of the petition was accordingly granted.

No. 40.—*Ex parte, Indiana Harbor R. R. Co., and Pittsburgh, Cincinnati, Chicago & St. Louis R. R. Co.*

1. Application for the approval of plans and the construction and operation of an interlocking plant at the crossing of these lines at Kentland.

2. The plans were referred to the Commission's consulting engineer, with directions to examine the same, also to inspect the construction and operation of this plant. Upon engineer's report coming in the plans and plant were approved and notices issued authorizing the operation of trains over this crossing without stopping after April 16, 1906.

No. 41.—*Bash Packing Company; Dockwiler & Kingsbury, and E. Rauh & Sons Fertilizer Co. v. Southern Railway Company and twelve other railway companies.*

Bamberger & Feibleman for the petitioners.

S. O. Pickens, Walter Olds, F. L. Littleton, W. R. Gardner, J. D. Wellman, and Stuart, Hammond & Simms for respondents.

1. This is a verified petition on the part of the petitioners against these railroads asking a reduction in freight rates on commercial fertilizers in the State of Indiana.

2. The petition shows that the petitioners are manufacturers of fertilizers, which are shipped from the cities of Ft. Wayne and Indianapolis to various points in the State of Indiana, and that there are about 75,000 tons of fertilizers used in Indiana annually, and that the rates charged by the respondents are excessive and are greater than the rates charged to other manufacturers and dealers in fertilizers located outside of the State, whose product comes in competition with the petitioners' product.

3. It is also claimed that the principal points of consumption for commercial fertilizers in this State are located on the line of the Southern Railway, and that that railway company refuses to prorate, with its connecting lines, on commercial fertilizers.

4. A public hearing was had in June last, continuing for almost a week, resulting in the taking of much testimony and the accumulation of many tariffs and rates from foreign States. Briefs on the evidence are now being filed, and the case will shortly be determined by the Commission.

Subsequently to the close of the year this cause was decided, and the rates on fertilizers reduced 33 1-3 per cent. below sixth class rates, according to the official classification, and the facts in such cause and the conclusions of the Commission thereon are set forth in the following opinion by the Chairman:

By Hunt, Chairman.—The petition in this cause alleges that the petitioner, Bash Packing Company, is a corporation organized and existing under the laws of the State of Indiana; that its principal place of business is in the city of Ft. Wayne, in said State; that the petitioners, Henry G. Dockwiler and Edward D. Kingsbury, are partners, doing business under the firm name

of "Dockwiler & Kingsbury," with their principal place of business in the city of Indianapolis, State of Indiana; that the petitioner, E. Rauh & Sons' Fertilizer Company, is a corporation organized and existing under the laws of the State of Indiana; that its principal place of business is in the city of Indianapolis, in said State; that each of said petitioning parties is now and for many years has been engaged in the manufacture and sale of commercial fertilizers.

Said petition further alleges that the respondents, Southern Railway Company, Cleveland, Cincinnati, Chicago & St. Louis Railway Company, Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company, Pennsylvania Company, Vandalia Railroad Company, Baltimore & Ohio Southwestern Railroad Company, Chicago, Indianapolis & Louisville Railway Company, Lake Shore & Michigan Southern Railway Company, New York, Chicago & St. Louis Railway Company, Illinois Central Railroad Company, Southern Indiana Railway Company, Wabash Railroad Company, and Grand Rapids and Indiana Railway Company, are each a common carrier for hire, and operate lines of railway within and through the State of Indiana.

The petitioners further allege that commercial fertilizers are rated as sixth class under the Official Classification by all railroads in the State of Indiana, with the exception of the Southern Railway Company, but does not charge under what particular classification commercial fertilizers are accepted by the said Southern Railway Company; that the sixth class rates charged by said railroads are 33 1-3 per cent. too high, and are excessive and unreasonable; that a large proportion of the commercial fertilizer sold within the State of Indiana is shipped to what is known as Ohio River points, and that, with the exception of the Southern Railway Company, the respondents are now charging, and have since the year 1899 charged, for the transportation of such fertilizers to Ohio River points within the State, from Indianapolis, a minimum rate of 6 cents, and from the city of Fort Wayne, from 10 to 15½ cents, per hundred pounds, to such points; that prior to the year 1899 said last named rates for the transportation of fertilizers were 2 cents less per hundred pounds; that at the time said rates were 2 cents less than the present rates

the minimum carload weight required by the respondents was 24,000 pounds, but that since the present rates were made operative, and at the present time, such minimum carload weight is 30,000 pounds; that such increase in the minimum carload weight works an injury to petitioners.

The petition further alleges that prior to the year 1899 the average price of commercial fertilizer was \$25 per ton; that at the present time the average price therefor is \$14 per ton; that the present ingredients and manufacturing methods employed in the manufacture of commercial fertilizers has reduced the risk attendant upon their carriage by railroads to a practical minimum.

The petitioners further allege that rates charged by the respondents for the transportation of the raw materials which are used in the manufacture of commercial fertilizers have been increased; that prior to the year 1905 sulphuric acid, which is extensively used in the production of fertilizer, was carried from La Salle, Ill., a sulphuric acid manufacturing point, to the city of Indianapolis, at a rate of \$1.80 per ton; that since that time the rate has been increased between said points to \$2.40 per ton; that on shipments of phosphate rock, from the Tennessee fields to Indianapolis and points north thereof, the rate is greater than the rate on the same commodity to the city of Cincinnati, Ohio; that said lower rate to Cincinnati, Ohio, rendered it difficult to compete in that market.

The petition further alleges that 40 per cent. of the output of commercial fertilizers in the State of Indiana is sold and shipped to points on the Southern Railway in Indiana; that said Southern Railway by reason of its location geographically enjoys a practical monopoly in and along the counties in Southern Indiana; that said Southern Railway Company refuses to prorate with the other respondents; that said Southern Railway Company adds its local rate to the rates of the other respondents; that it transports potash and nitrate of soda, each an ingredient of fertilizer, and worth \$45 per ton, at a less rate than it charges for the transportation of commercial fertilizers; that said Southern Railway Company charges less for the transportation of fertilizer over greater distances in the States of Illinois and Kentucky than it does in the State of Indiana.

The prayer of the petition seeks a reduction of the rate for the transportation of commercial fertilizers within the State of Indiana to 33 1-3 per cent. of the sixth class rates now charged by the respondents, that said Southern Railway Company be required to prorate on a fair and equitable basis with the other respondents.

To the petition the respondents filed their answers severally in general denial, and special answers.

Upon the hearing of the cause by the Commission, and prior to the introduction of the evidence, the respondents by counsel tendered the sixth class rate on commercial fertilizer within the State of Indiana, with the further guaranty that some agreed proration of joint rates would be arrived at by the respondents with the respondent Southern Railway Company, which oral offer of satisfaction was declined by counsel for petitioners.

The evidence produced at the hearing was voluminous and exhaustive, and after careful consideration of the record, the Commission now finds the following to be the controlling facts:

FINDINGS OF FACT.

Commercial fertilizer, when shipped in carloads of the required minimum weight, or over, is classified in the official classification as sixth class, on all the respondent railroads, with few exceptions; that the Southern Railway Company, which company transports fertilizer on commodity rates is one of these exceptions; that the sixth class rate applies on most of the respondents' railroads throughout the State on this article. Among others, the following rates are in effect on shipments of commercial fertilizer: From Indianapolis to Ohio river points the rate is 8 cents. per hundred pounds, and was applied only to Southern Railway junction points, from which junctions to destination on Southern Railway that company added its local rates. Prior to 1899 this rate to Ohio river points was 6 cents, being increased 33 1-3 per cent. in that year. The distance from Indianapolis to New Albany, Madison or Jeffersonville (Ohio river points) is approximately in each case 110 miles. On June 4, 1906, the Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company published a joint

9-cent rate on sixth class to all Southern Railway points in Indiana from Indianapolis. That prior to that time the Pennsylvania charged from Indianapolis to Southern Railway points a rate of $10\frac{1}{2}$ and 11 cents on sixth class articles, which was prorated 50 per cent. to each company. The sixth class rates on respondents' railroads range as high as $15\frac{1}{2}$ cents from Ft. Wayne to Southern Railway points. The rate on fertilizer from Chicago to points on the Southern is 12 cents per hundred pounds, and from the rock fields in Tennessee the rate on acid phosphate rock, ground or in bulk (and which the evidence shows is but another name for fertilizer) is 6 cents per hundred pounds to Ohio river points.

The minimum car load weight for fertilizer as prescribed by the respondents is 30,000 pounds, an increase of 6,000 pounds over the former minimum.

The term "commercial fertilizer" is defined by the statute of this State "to mean any and every substance imported, manufactured, prepared, or sold for fertilizing or manurial purposes, except barn-yard manure, marl, lime, wood ashes and plaster." Its component parts are acid phosphate and filler, and this latter term "filler" is defined by the State chemist to be "any material which is added to a fertilizer to reduce the percentage of fertilizing ingredients." Filler is used, too, for the purpose of keeping the fertilizer in a proper condition of dryness and granulation. Acid phosphate is a pure fertilizer and is reduced by the addition of a filler to meet the requirements of any certain condition of ground. The evidence tends to show that modern or commercial fertilizer is practically odorless, its only odor being a slight acid smell due to the large quantities of sulphuric acid employed in its mixture. It leaves no odor in a car in which it is shipped, and does not injure or render such car unfit for immediate use in the transportation of other commodities. In loading fertilizer for shipment it requires only that the equipment shall be covered. There is little or no risk incident to its carriage, and in case of accidents the damage is insignificant, for the reason that it is not perishable either by fire or exposure.

Prior to the year 1898 commercial fertilizer was composed of blood, meal, bone, tankage and packers' offal, of a highly inflam-

mable nature, damageable by exposure, and its market value ranged from \$19 a ton up. At the present time 60 per cent. of the fertilizer consumed in this State sells for \$12.50 per ton, 25 per cent. for \$13.50, and the remaining 15 per cent. at from \$17.50 to \$18, with rare instances of higher priced fertilizers being used. When in shipment form it is readily handled, about 90 per cent. being bagged and labeled in accordance with the law governing the sale of fertilizers in this State. Between 40 and 50 per cent. of the fertilizer sold in the State is consumed in the territory contiguous to the Southern Railway in Indiana. The consumption of fertilizer in the State has increased from 25,000 tons in 1899 to about 75,000 tons for the past year.

The respondents maintain an inspection bureau at Indianapolis, where all freight, including fertilizer, is examined and inspected before being accepted by the respondents for transportation.

The fertilizer shipped to points on the Southern Railway comes in direct competition with Chicago and the fertilizer producers located near the Tennessee rock fields. One witness testified that the profit of his company on their fertilizer averaged but 30 cents per ton.

There is practically no difference in value between acid phosphate and fertilizer, except that in some instances the value of the fertilizer is less owing to the addition of the filler. It has no other use than that of a fertilizer and finds no other market except as such a product. A carload of either acid phosphate or fertilizer varies in value from \$210 to about \$300. The evidence tends to show that where fertilizer is used, the increased yield from the land ranges from 25 to 100 per cent.

CONCLUSIONS.

Counsel for respondent Southern Railway Company insistently urged, by objection at the hearing and in their brief, that the allegations in the petition are not sufficient to charge an unjust classification of commercial fertilizer, but that the petition proceeds upon the theory simply of an unreasonable or extortionate rate on that commodity.

It is necessary in order to equitably distribute among shippers the burdens of the entire schedule of freight rates to graduate

such rates or charges according to the nature of the article carried, and it is by affecting classification that the potential factors are arrived at which influence or affect the rates. While any particular rate is the resultant of many factors, yet primarily classification is the basic principle of rate-making. The division of rates is accomplished by the classifying of all articles transported by carriers into certain relative groups or classes, and then by giving scope to the economic forces which must be recognized as playing a legitimate part in the establishment of any rate, the rate for any certain class or group of articles should be fixed not so low as to impose a burden on other classes, but with a view to the reasonable relation of cost of production and value of the transportation service. So many varieties of commodities are transported by the carriers of today that it is a practical impossibility to consider each article by itself and fix a separate and distinct rate or charge for its carriage. Of necessity the grouping or classifying of articles according to approximate similarity has become an essential, even necessary, factor in arriving at the propriety or reasonableness of any particular rate, and so to determine whether a rate for the carriage of any given article is in itself extortionate or unreasonable involves primarily a consideration of the justness or equality of the article's classification. Under the official classification, which governs the carriage of freight in the State of Indiana by the respondents, commercial fertilizer in carloads of required minimum weight is sixth class, and the rates which the respondents apply to sixth class freight apply to it. This sixth class rate charged by the several respondents the petitioners assert to be an unreasonable and excessive charge for the carriage of commercial fertilizer, and this because commercial fertilizer is improperly and unjustly classified. The petitioners do not complain of sixth class rates as an entirety, but solely of the application of a sixth class rate to fertilizer. The entire question presented by the petition resolves itself into this single inquiry: Is commercial fertilizer properly and justly included in the sixth class of the official classification, or should it receive a lower classification? The Commission is, therefore, of the opinion that the allegations of the petition charging an unreasonable and unjust classification of commercial fertilizer are sufficient; and so holds.

The petition seeks to have commercial fertilizer taken out of the sixth class of the official classification and placed at rating 33 1-3 per cent. lower than the sixth class, alleging its improper classification with the articles embraced in that class. While it will be conceded at the outset that it is quite impossible to reach mathematical exactness in the distribution of the burdens of transportation, yet it is the duty of this Commission to arrive at the most reasonable and substantial approximation of a proper and justifiable rating of the commodity in question. To do this it is necessary to make an equitable and relative comparison of the articles offered for transportation. The charge to be made for the carriage of any given commodity must be the result of the graduation according to the nature of the article and the circumstances and conditions under which it becomes an article of transportation. The controlling factors which govern the conditions of freight classification are substantially the elements of character of the article, its use, value, volume of its traffic, bulk, weight, handling expense to the carrier and the attendant risk incident to its carriage, competition in the market which it seeks, and even competition among carriers themselves, as well as geographical differences in points of production, importantly affect classification of the article. In many instances the increase in other related traffic resulting from the article's use determines largely its classification. Necessarily in a classification of but six classes, such as governs on the railroads of the respondents in this State, many articles are grouped in a certain class which appear to have little if any relation to each other in many of the above respects, but where the analogy, and the word is used advisedly, in physical characteristics is lacking, the article should be classed with the commodities with which it is most nearly related in general characteristics and other essential respects of similarity of circumstance and condition governing its production, sale and use. Hence, it will be readily seen that value alone in some cases should properly control the classifying of a commodity, where, again, the volume of its traffic would be the important feature. So, too, the requirements of care in handling by the carrier, attendant risk, perishability, might each control in its comparison with physically unlike articles.

In the present case acid phosphate, which is carried in this State by the respondents at a lower rating than fertilizer, approx-

imately equivalent to a reduction of 33 1-3 per cent. of the sixth class, is a product which becomes commercial fertilizer without any change in its chemical constituency, or frequently the strength of the sulphuric acid is reduced merely by the addition of a so-called filler. It has but one use, that of a fertilizing element to be added to the soil to increase the productiveness of the land. The use of commercial fertilizer is identically the same. Thus is established first the elements of similarity of physical characteristics and use. The volume of acid phosphate transported is necessarily a little less than that of fertilizer owing to the use of a certain amount of filler for acid reducing purposes. The expense of handling to the carrier and the risk incident to the carriage of either article is substantially the same. In bulk and weight there is scarcely a perceptible difference. Even the element of competition resolves itself in favor of a lower rating on fertilizer on account of the fact that the Indiana producers of that article must compete in the territory contiguous to the Southern Railway and the Ohio river with the producers of acid phosphate in the south who are able to ship their product ready for use as a fertilizer into the same territory at a much lower rate. In none of the essential elements which should control the classification of commercial fertilizer does it bear so close an analogy or relationship as with its misnomered counterpart, acid phosphate.

It is a significant fact, evidencing the judgment of the official classification committee to be that acid phosphate and commercial fertilizer in carload lots should be placed in the same class, that in the official classification "acid phosphate rock," which is a misapplied name for "acid phosphate," there being no such substance as "acid phosphate rock," is listed with fertilizer in the sixth class. Notwithstanding such classification, acid phosphate is generally carried by the respondents in this State at a materially lower rating than the rate applicable to the sixth class. True it has been asserted by the respondents that they were ignorant of the true nature of acid phosphate or acid phosphate rock, as they termed it, and that in the making of their rates for its carriage they had treated it as a raw material to be used in the production or manufacture of commercial fertilizer, yet the evidence conclusively shows that they maintained inspection bureaus where it was inspected, and that acid phosphate and commercial fertilizer are

one and the same thing, and identical in their chemical proportions, save in many instances the land on which the fertilizer is to be used requires that the amount of sulphuric acid in the acid phosphate be reduced by the employment of some reducing agency, such as a filler.

We think from a consideration of all the facts in this case that the classification of commercial fertilizer in this State has been imperfect and unjust, and the Commission, therefore, now concludes and adjudges that the respondent railroad companies shall transport, within the State of Indiana, commercial fertilizer when offered for transportation in conformity with the statute of the State, at a rate not exceeding 66 2-3 per cent. of the present sixth class in accordance with the official classification now in effect. An order will be so issued.

No. 42.—*Indiana Veneer and Lumber Co., and S. Bash & Company v. Baltimore & Ohio R. R. Co., and thirty-two other railroad companies.*

Edgar A. Brown for the petitioners.

Miller, Shirley & Miller and S. O. Pickens for the respondents.

1. This is a verified petition against the respondents upon the subject of car service rules, charging that the rules of the Indiana Car Service Association are not reasonable and undiscriminative, and asking that new and additional rules be promulgated on certain subjects and that rules be promulgated by the Commission to control the distribution of cars, and also upon the subject of reciprocal demurrage.

2. Special objections were filed to the petitions and sustained in so far as the petition sought the establishment of rules on the subject of reciprocal demurrage and the forward movement of traffic for a specific number of miles per day, and concerning the distribution of cars.

3. A public hearing was had, lasting many days, in which a great amount of testimony was taken, upon which briefs were filed and oral argument had, and the cause finally determined by the Commission.

4. For the purpose of a clear understanding of the controversy and the rules promulgated by the Commission, the rules of the Indiana Car Service Association are here set out:

Indiana Car Service Association Rules.

EFFECTIVE APRIL 1, 1906.

RULE 1.

(a) When cars are placed for loading or unloading on public delivery tracks or on sidings, the railroads performing the service, forty-eight (48) hours will be allowed.

(b) When cars are interchanged with minor railroads or industrial plants which perform their own switching service and which are not members of a car service association, they handling cars for themselves or for other parties, an allowance will be made for the time necessary in their switching service in addition to the regular time allowed for loading or unloading as per paragraph "a."

RULE 2.

Lake-and-Rail Rule not used in Indiana Car Service Association territory.

RULE 3.

Twenty four (24) hours will be allowed:

- (a) When cars are reconsigned.
- (b) When cars are held for final or amended instructions before delivery to connection.
- (c) When cars are held for payment of freight charges before delivery to connection.
- (d) When cars are allowed a further privilege of distribution.
- (e) When cars are detained at any point by reason of being billed to order, or are awaiting bills of lading, or instructions as to disposition.
- (f) When cars are detained in transit on account of neglect of consignor to furnish shipping instructions.
- (g) When cars are detained by reason of improper, unsafe or excessive loading.

RULE 4.

When cars in transit are allowed the privilege of stopping for milling, shelling, cleaning, compressing or change of load by the owner or his agent, forty-eight (48) hours will be allowed.

RULE 5.

When both cars and tracks are owned by the same party, no charge will be made; but when private cars are detained on the tracks of other corporations, firms or individuals, or on tracks belonging to or operated by members of this Association, or cars controlled by the latter on private tracks, these Rules will apply.

RULE 6.

A reasonable charge per car per day or fraction thereof shall be assessed and collected upon all cars detained beyond the time allowed as provided for in these Rules.

RULE 7.

Cars containing freight for a connection, when said connection is unable to deliver on account of inability of the owner to receive, will be allowed twenty-four (24) hours, if cars are afterwards delivered to connection, provided due notice is given consignee that cars are so held.

If cars are unloaded on tracks of the holding road, forty-eight (48) hours will be allowed, provided due notice is given to the consignees that such cars are held for their unloading.

RULE 8.

The railroad will refuse to receive loaded cars unless accompanied by billing instructions. If such billing instructions are not bona fide, the car service rules will be enforced on such cars by the agent of the receiving road. If the contents of such cars are transferred into cars of the receiving road before final instructions are received from the shipper, the car service charges will continue on the car into which the freight is transferred. In case the road can not receive freight from other roads it shall promptly notify the delivering roads of its inability to receive, so that the delivering roads may make other disposition of the shipments.

RULE 9.

(a) Cars are not subject to orders for loading, either by the owners of the property contained therein or by any other shipper, until they are empty.

(b) Cars consigned to or ordered to private sidings, shall be considered to have been delivered, either when such cars have been placed on the track designated, or when they would have been placed but for some condition attributable to consignors or consignees.

(c) Agents will collect car service charges accruing under the Rules regardless of the condition of the weather.

RULE 10.

(a) On all public delivery tracks car service charges shall be collected by the agent or his clerks daily as the charge accrues. Where consignors or consignees refuse to pay, the agent shall hold the car until payment is made; the regular charges being assessed until car is unloaded, or at his option he may direct the sending of such cars to public storage houses or yards, where the freight will be held subject to regular storage charges in addition to accrued car service and all other charges.

(b) On deliveries to private sidings, in cases where consignors or consignees refuse to pay, or unnecessarily defer settlement of bills for car service charges, the agent of the railroad shall decline to switch cars

to the private sidings of such parties, notifying them that deliveries will only be made to them on the public delivery tracks of the company after the payment of freight charges at his office, and shall promptly notify the Manager of the action taken.

(c) Car service charges due upon cars ordered forward, either in regular or switching service, must be collected before shipping instructions are accepted and bill of lading signed.

RULE 11.

Agents will be held responsible for the collection of car service charges on public delivery tracks in exact accordance with the contract for service, and consignors or consignees using railroad employes as their agents are responsible for all delays in the transmission of orders.

The Rules apply impartially to all consignors and consignees in accord with the specific contract for service, irrespective of whether they are residents or nonresidents, the responsibility of either being the same.

RULE 12.

(a) Agents should instruct claimants in each case to plainly state upon what ground any refund is requested, furnishing paid expense bill. Claims may be made directly through the agent, but it would expedite investigation of claims are made directly to the Manager.

(b) It is the Manager's obligation to thoroughly investigate and decide each claim upon its merits, either declining the claim or authorizing the railroad to refund such amount as may be right and proper.

(c) Claimants can exercise the right of appeal to the railroad if dissatisfied with the Manager's decision. It is in the interest of claimants to state peculiar conditions upon which claim is based, and special conditions over which owners of property have no control. Claim should be presented promptly.

5. The rules promulgated by the Commission, and its order concerning the same, read as follows:

In this matter comes now the petitioners and intervening petitioner in person and by attorney, and comes also the respondents by their counsel and attorney, and said petitioners having alleged in written, verified complaints that respondents failed to have in effect just and reasonable and undiscriminative rules and regulations to govern car service, and the said respondents having filed their several answers to said complaints, and the Commission having heard evidence and oral argument, and having read the briefs of counsel, and having considered the reasonableness of the rules complained of, the Commission finds, and it is so ordered

that respondents have failed to have in effect just and reasonable and indiscriminative rules and regulations to govern car service.

It is further ordered, That the following rules, numbered from 1 to 9, are hereby adopted by the Commission as the rules to govern car service in this State, and that the rules of the Indiana Car Service Association as modified, changed, altered and corrected by said rules of the Commission may go into effect at all the stations of all the respondents in this State.

It is further ordered, That said rules are in the letters and figures as follows:

Rule 1. Railroad carriers, within 24 hours after the arrival of freight, shall give legal notice to the consignee of arrival, and shall place cars for unloading, except that 24 hours may be allowed for placement in cases set out in Rule 3 of Indiana Car Service Rules. Notice must contain weight and amount of freight and other charges, and, if carloads, letters or initials and numbers of cars, and, if transferred in transit, the number and initial of original car, net weight, and amount of freight charges due on same. Legal notice may be either actual or constructive; actual when delivered in writing to the consignee in person, or left at his place of business; constructive when deposited in the postoffice or United States letter box at or nearest the station to which the goods are consigned in accordance with billing instructions. Telephone or other notice may be used, by written agreement, in place of legal notice. (See note.)

Rule 2. A charge of one dollar a day or fraction of a day shall be made on each car placed for loading or unloading after the expiration of forty-eight hours from 7 a. m. next following notice of arrival and placement or offer to place.

Rule 3. In cases where actual delivery of cars can not be made on account of some act of the shipper or consignee, legal delivery will be considered to have been effected when the carrier offering such cars would have made delivery had not said act of the shipper or consignee prevented.

Rule 4. When by reason of delay or irregularity of the carriers in filling orders, cars are bunched in excess of the ability of the shipper, as indicated by his application, to load within the free time allowed by these rules, the shipper shall be allowed

separate and distinct reasonable periods of free time, as shown by his application for cars, within which to load the cars so delivered, provided the shipper must employ during business hours all his usual and ordinary facilities to load the cars.

Rule 5. When on account of delay or irregularity of transportation or switching, cars are bunched and delivered to consignee beyond his ascertained ability to unload within the free time prescribed in these rules, he shall be allowed by the carrier such additional reasonable free time as may be necessary to unload cars so in excess, by the exercise of due and usual diligence on the part of the consignee; provided, the consignee must employ during business hours all his usual and ordinary facilities to unload the cars.

Rule 6. Whenever, on account of the severity of the weather, it is impossible, or impracticable, during business hours of free period, to secure or use means of loading or unloading, or whenever, on account of the severity of the weather, removal during business hours of free period would cause material damage to the freight, reasonable additional free time shall be allowed.

Rule 7. In every case where the shipper within ten days after car service claim has been presented to him makes an affidavit setting out the facts which entitle him to additional free time under rules 4, 5 or 6, or showing that he was prevented from loading or unloading within the free time allowed on account of some specified fault of the carrier, it shall be the duty of the carrier's Car Service Manager to promptly investigate the complaint, and said manager may order the account for car service to be canceled. If, however, said Manager shall insist upon payment the papers, together with said affidavit, must be presented to the Division Superintendent or Local Freight Agent of the carrier, who shall decide said claim on its merits. Until such investigation and decision is made, car service charges and penalties shall not be enforced in such cases. (See note.)

Rule 8. In all calculations of free time mentioned in these rules, the following days shall be excluded: Sunday, January 1, February 22, May 30, July 4, the first Monday in September, all general election days, Thanksgiving Day as appointed by the President of the United States or the Governor of Indiana, and

December 25. When either of such days comes on Sunday the following Monday will be excluded.

Rule 9. These rules shall prevail at all railroad stations and sidings of the respondent carriers in this State, and shall be published by posting at said stations, as required by law.

It is further ordered, That each of said respondents shall cause said rules to be printed in large type and shall have the same posted up in a conspicuous place in each of their depots accessible to the public, or shall keep the same on file in each of said depots for the inspection of all interested persons, in which case a notice shall be printed in large type and posted up in some conspicuous place in said depots, notifying the public that copies of said rules are kept at said station for public inspection and can be seen by any person interested on application to the freight agent.

It is further ordered, That these rules shall be effective the first day of January, 1907, and that a certified copy of these rules shall be delivered to each of the said railroad companies at its principal office in this State. (See note.)

Note: After the entry of this order the same was, upon application, modified as here set forth.

6. The conclusions of the Commission upon this subject are set forth in the following opinion:

By Wood, Commissioner.—The courts have settled that carriers have a right to charge for the use of cars after shippers have been afforded an opportunity to unload. It is clear also that when the usage of the carrier, known to shippers, was to make such charge that the charge became a part of the contract and could be so recovered. It seems to us that these rules should go further. The only legitimate use of cars is transportation. The cars are made for transportation, and not for warehouses. Neither the carrier nor the shipper, because the rights of other carriers and other shippers intervene, have any right to divert cars from transportation, except, of course, the usual necessary time to load and unload them. "In this matter the public have rights paramount to those of any individual, and the business of the public carrier must be so conducted as to subserve the general interest and convenience."

The Indiana act has made it the duty of the Commission, after complaint filed, "to adopt all necessary regulations to govern car service;" to enforce reasonable and just charges for the railroad company for the use or transportation of loaded or empty cars, and to enforce reasonable rates for the railroad companies "for storing and handling of freight and for the use of cars not unloaded after 48 hours' notice to the consignee, not to include Sundays or legal holidays;" and to "make such corrections, alterations, changes or new regulations," to operate for the benefit of all persons similarly situated with the complaining party, and on the lines of the railroads complained of, "as may be necessary to prevent injustice or discrimination."

It must be noted that the Legislature has suggested, if not established, 48 hours as the free time, a period corresponding with the customs of business and the car service rules generally prevailing in this country, but that it is intended also that notice to the consignee shall be given, and Sundays and legal holidays shall be excepted. We have not attempted therefore to change the free time of the Indiana car service rules, but we have carefully provided how notice shall be given, adding telephone notice by agreement, to expedite business, and we have set out in the rules, so that there could be no mistake, the holidays excepted.

As we understand the evidence, certain exceptions to demurrage charges are made, at least sometimes made, in practice, although not mentioned in the rules. Now, it seems to the Commission that it is best to set out specifically so that all parties may have a clear understanding and a square deal exactly what these exceptions are. Hence, we have provided for weather conditions and the bunching of cars on the one side, and, on the other hand, have regarded placement as made where the fault of the consignee prevented placement.

As to reciprocal demurrage, we have every reason to believe from the information at hand that the General Assembly intended to give the Commission power to establish reciprocal rules to prevent discrimination and delay. But the terms of the act in the light of the rules of statutory construction render it so doubtful whether the Commission can make such rules that we feel it is best to relegate this matter to the General Assembly, now

about to convene. If the representatives of the people of the State desire to pass such an act it would become effective long before an appeal from the decision of the Railroad Commission could be decided.

Rule 7 of the Commission's rules is a new rule, which does not obtain elsewhere, so far as we have been able to find, and we have before us all the car service rules of the different associations and States of this country. It is made to prevent the manifest injustice which even the emergency of car service rules should not sanction, of enforcing, without investigation, the actual payment of a dollar not owing and not due. It is made in the interest of harmony between carrier and shipper, to obviate the rankling consciousness of an injustice done, exciting to acts of greater injustice. It makes the affidavit of the shipper a bar to the collection of demurrage until both the manager and the carrier have finally and fully investigated the claim. It is expected that its operation will prevent the friction and feeling the car service charges have brought about. It is certainly far better than the present arbitrary system, and inasmuch as 95 per cent. of the cars move without car service charges, it will have no appreciable effect on the expedition of business.

The scarcity of cars to do the business of the country is the most difficult problem of the business world. It is perplexing to the carrier and harassing to the shipper. While it is the fault of some of the railroad carriers that with the accumulation of business and profits they have failed to look forward and keep up with the development of the country, it is not now a question of who is to blame, but a grave condition requiring the utmost efforts of carrier and shipper to solve without great loss. In the common interest of such a condition, the Commission feels that it is not out of place in a formal opinion to appeal to the shippers of the State to load and unload and release cars furnished to them with all possible dispatch. In considering these questions, in view of these conditions, the Commission has performed the most difficult duty it has yet encountered, namely, to adopt rules which will keep the products and merchandise of the country moving, and at the same time prevent, as far as possible, individual oppression and wrong. We have no doubt that our rules will afford some re-

lief. And we expect to supervise their working, to the end that we may add to them hereafter as may be necessary to increase the volume of business, to obviate unnecessary friction, and to prevent injustice and discrimination.

No. 43.—*Martin, Martin & Co. v. Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company.*

Forkner & Son for petitioner.

Jno. L. Rupe and L. P. Newby for respondent.

1. This was an application by the petitioner to require the respondent to extend the private switch of the petitioner so as to accommodate all of its coal bins located along the respondent's right of way at New Castle, Ind.

2. On July 6, 1906, the cause was heard at the court house in New Castle, Ind., and after hearing the evidence the Commission earnestly insisted that the respondent should grant the relief asked by the petitioner, and upon the respondent's representatives promising to consider the matter the cause was taken under advisement, and subsequently, on September 26, 1906, the Commission was notified by petitioner that the railroad company had entered upon the construction of the improvement on terms satisfactory to the petitioner, whereupon the cause, at the request of the parties, was dismissed.

No. 44.—*S. Bash & Company v. the Baltimore & Ohio R. R. Co. et al.*

1. This was a petition upon the subject of car service and car service rules filed by the petitioner against the respondent and some forty other railroads, and the subject matter of this petition being already under consideration in cause No. 41, it was ordered by the Commission that this petition be filed in and consolidated with that cause, which was accordingly done, and the subjects complained of were considered in that cause, and there determined, and reference is here made thereto.

No. 45.—*The North Vernon Box Co. v. Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company; Cleveland, Cincinnati, Chicago & St. Louis Railway Company, and Baltimore & Ohio Southwestern Railway Company.*

Williams & Schlosser for the petitioner.

S. O. Pickens for the Pennsylvania Line.

F. L. Littleton for the Big Four.

W. R. Gardner for the B. & O. S. W.

1. This was a verified petition on the part of the complainant against these respondents charging that the respondents improperly classified paper plugs, and on account of such an improper classification petitioner was discriminated against and unable to compete with other manufacturers of like products.

2. The cause was heard, evidence taken and briefs filed, and after due consideration the Commission found that the petition was not sustained and accordingly dismissed the same. The facts and conclusions of the Commission upon the cause are set forth in the following opinion:

McAdams, Commissioner—The petitioner in this cause is a partnership engaged in the manufacture and sale of boxes and also of paper plugs to be used as bushings for holding counter paper on the rolling machine. Petitioner ships its product of plugs over respondent's lines to points in Indiana and to points without the State. Respondents classify the plugs as third class, L. C. L., and fifth class C. L., and charge rates accordingly. The petitioner has filed its petition with the Commission complaining of this classification and insisting that the product should be classified as fourth and sixth class, and that the respondents discriminate against the petitioner in classifying railroad tie plugs as fourth and sixth class, and that the classification of petitioner's product is too high and is unfair and unjust.

The evidence shows that the paper plugs are made by squaring the timber with saws and then placing the squared piece in a turning lathe which automatically turns the plugs and cuts them from the piece, when they are placed in an oven and dried, and are then ready for shipment. When shipped in small quantities they go in boxes or bags, and when in carload lots they are thrown into the car loose. The average value of the plugs f. o. b. the factory is

\$1.90 per thousand. The tie plugs are made by revolving saws and hand tools and are made from inferior materials, and are worth about forty cents per thousand. They are shipped in about the same manner as the paper plugs.

There is a total failure of evidence to show that these two articles should be carried in the same class. After examining analogous classifications in the official classification territory, we are of the opinion that the petitioner's product is not classed too high. Any order of the Commission could only be effective in Indiana, while the major portion of the traffic is interstate. The evidence shows that petitioner's business is profitable, that it has no difficulty in filling its orders under present rates and has been able to meet competition in as successful a manner as is usual in business affairs. These considerations lead the Commission to the conclusion that the petition should not be sustained, and that the same should be and is, therefore, dismissed.

Wood, Commissioner, took no part in the hearing and determination of this cause.

No. 46.—*Ex parte, Cleveland, Cincinnati, Chicago & St. Louis Railway Co., Chicago, Indianapolis & Louisville Ry. Company, and Vandalia Railway Company.*

1. This was an application by these companies for the approval of plans and for an inspection of the construction and operation of an interlocking plant for the protection of the crossing of these lines at Crawfordsville Junction.

2. The plans were referred to the Commission's consulting engineer with directions to examine the same and inspect the construction and operation of the plant, and upon his report coming in the plans were approved and the construction and operation of the plant was approved, and notices issued authorizing the operation of trains over this crossing without stopping after May 21, 1906.

No. 47.—*The Manufacturers' Club of Ft. Wayne, Indiana, v. Baltimore & Ohio Southwestern Railway and fifteen other railroads.*

Breene & Morris for petitioner.

S. O. Pickens et al. for respondents.

1. This was a petition by the Manufacturers' Club of Ft. Wayne, Ind., against the coal carrying roads in Indiana concerning the rates on coal from eastern fields and Indiana fields into Ft. Wayne.

2. Pending the making up of the issues in this cause, the railroad companies, acting through William Hodgdon, General Freight Agent of the Vandalia Railroad Company, entered into negotiations with the petitioners and the Commission for the purpose of adjusting coal rates into Ft. Wayne on some satisfactory basis.

3. After considerable negotiation, the railway companies finally agreed to reduce the rates on eastern coal into Ft. Wayne 10 cents per ton, and to reduce the rates on Indiana coal from mines on the Vandalia Railroad, Brazil district, from \$1.10 to 90 cents per ton, and from mines on that railroad, Vincennes district, from \$1.10 to 95 cents per ton.

4. The proposition of the companies being approved by the Commission and acceptable to the petitioners, such tariffs were put into effect and this proceeding was dismissed, and for further information concerning this subject reference is made to the adjustment docket No. 53, in this report.

No. 48.—*Ex parte, Indianapolis & Northwestern Traction Company, and Chicago, Indianapolis & Louisville Railway Company.*

1. Application for the approval of plans and the inspection of the construction and operation of an interlocking plant at the crossing of these roads near Frankfort, Indiana.

2. Plans were referred to the Commission's consulting engineer, with directions to examine the construction and operation of the plant, and upon his report coming in the plans and plant were approved and an order was issued authorizing the operation of trains over this crossing without stopping after September 14, 1906.

No. 49.—*Ex parte, Cleveland, Cincinnati, Chicago & St. Louis Railway Company, and Central Indiana Railroad Company.*

1. Application for the approval of plans for the rearrangement of an interlocking machine at the crossing of these lines at Lebanon.

2. The plans were referred to Commission's consulting engineer, and upon his report being filed plans were approved, and the machine is now being constructed.

No. 50.—*Ex parte, Cleveland, Cincinnati, Chicago & St. Louis Railway Co., and Cincinnati, Hamilton & Dayton Ry. Co.*

1. Application for the approval of plans and the inspection of the construction and operation of the interlocking machine at the junction of the St. Louis Division and Peoria Division of the Big Four Railroad and the C., H. & D. Railroad at White River, in West Indianapolis.

2. Plans referred to Commission's consulting engineer, with directions to examine the construction and operation of the plant, and upon his report coming in plans and plant were approved and notices issued authorizing the operation of trains over this crossing without stopping after July 5, 1906.

No. 51.—*Chicago, Cincinnati & Louisville Ry. Co. v. Chicago, Indianapolis & Louisville Ry. Co.*

Robbins & Starr for petitioner.

E. C. Field for respondent.

1. Petition filed requesting the Commission to determine manner and conditions upon which the petitioning company should cross the line of the respondent company at Hammond, Indiana.

2. The parties having agreed as to the manner of terms for the crossing, the petition therefor, by consent of the Commission, was withdrawn and plans for an interlocking machine presented and approved by the parties.

3. Plans so presented referred to the Commission's consulting engineer for inspection, and upon his report coming in the plans were approved and the plant is now being constructed.

No. 52.—*Ex parte, Southern Indiana Ry. Co., and Evansville & Terre Haute R. R. Co.*

1. Application for the approval of plans and inspection of the construction and operation of an enlarged interlocking machine to control the crossing of these roads at Springhill.

2. Plans referred to the Commission's consulting engineer, with directions to inspect the construction and operation of the

plant. Upon this report being filed the plans and plant were approved and notices issued authorizing the operation of trains over this crossing without stopping after August 1, 1906.

No. 53.—*Ex parte, Pittsburgh, Cincinnati, Chicago & St. Louis Railway Co., Elgin, Joliet & Eastern Ry. Co., and Michigan Central Railway Company.*

1. Application for the approval of plans and the inspection of the construction and operation of an enlarged interlocking plant to control the crossing of these lines at Hartsdale.

2. The plans so filed and amended plan subsequently filed were submitted to the Commission's consulting engineer, with directions to examine the construction and operation of the plant. Upon his report coming in, the plans and plant were approved and notices issued authorizing the operation of trains over this crossing without stopping after October 12, 1906.

No. 54.—*Ex parte, Baltimore & Ohio R. R. Co., Cleveland, Cincinnati, Chicago & St. Louis Railway Company, and Winona Interurban Railway Company.*

1. Application by Baltimore & Ohio Railroad Company for the approval of plans for proposed interlocking machine at the crossing of these lines at Milford Junction.

2. Plans so proposed were referred to the Commission's consulting engineer, and upon his report coming in, the plans were approved and the plant is now under construction.

3. These plans were approved on the condition that within one year from the date of approval the line of the Winona Interurban Railway Company shall be carried either over or under the tracks of the steam railroad, or included within the operation of the interlocking machine.

No. 55.—*P. H. & F. M. Roots Co. et al. v. Cleveland, Cincinnati, Chicago & St. Louis Railway Company; Cincinnati, Indianapolis & Western Railway Company; Cincinnati, Hamilton & Dayton Railway Company; Judson Harmon, Receiver.*

D. W. McKee for petitioners.

Frank L. Littleton for the Big Four.

Elam & Fesler for C. I. & W., C. H. & D., and receiver.

1. Petition filed by the petitioners to require the respondent companies to construct physical connection between their lines at Connersville, Indiana, and to interchange business at that point. When the petition was originally filed the Cincinnati, Hamilton & Dayton Railway Company and Judson Harman, receiver thereof, were not made parties respondent.

2. A hearing was had wherein it was developed that the C. I. & W. had leased its line to the C. H. & D., and that the C. H. & D. is now in the hands of Judson Harman, as receiver, by appointment of the Federal Court. On these facts appearing, the Commission ordered the C. H. & D. and the receiver to be made parties respondent, which was accordingly done.

3. Upon service being had upon the C. H. & D. and the receiver, a plea was filed by them to the jurisdiction of the Commission over the C. H. & D. and its receiver. After consideration this plea was overruled by the Commission.

4. The C. H. & D. and its receiver, having waived the privilege of introducing additional evidence and consenting that the cause might be determined upon the evidence previously heard, the Commission, on the 31st of October, entered an order requiring these companies to make physical connection between their lines in the City of Connersville, Indiana, and thereafter to exchange carload traffic in the usual and ordinary manner upon reasonable compensation therefor, with the right on the part of the companies, in the first instance, to determine what should be a reasonable charge for interchange of traffic between such companies at that point, and the order was made effective November 20, 1906, and the order further provided that in case the respondents failed to at once commence to provide for these facilities that the Attorney General should proceed to enforce the order of the Commission. The facts in the cause, and the conclusions of the Commission thereon are set forth in the following opinion:

McAdams, Commissioner.—This is a proceeding by the petitioners, who are manufacturers having their places of business located on the lines of the Big Four Railroad and the Cincinnati, Indianapolis and Western Railroad, in the city of Connersville, in Fayette County, this State.

These railroads were constructed a great many years ago. The

line of the Cincinnati, Indianapolis and Western crosses the line of the Big Four Company above grade, and there is no physical connection between said railroads at any place in said city of Connersville.

The petition in this case seeks an order from the Commission to require these railroad companies to make physical connection between their lines and interchange business in carload lots.

The city of Connersville is one of the most thriving manufacturing cities in the State of Indiana, and has a very large inbound and outbound carload tonnage. Raw material inbound on the Big Four Railroad, destined to a factory located on the other line, cannot be transferred except across the city by teams, and the same is true of outbound carload shipments which should leave on the Cincinnati, Indianapolis and Western Railroad, but come from a factory located on the Big Four. On account of these conditions the manufacturers who conduct these business establishments in said city are not able to comply with billing instructions from their customers, but are limited wholly and entirely to the service furnished by the line on which their factory is located.

The Cincinnati, Indianapolis and Western Railroad runs from Hamilton, Ohio, to Springfield, Illinois, and from Sidell, Illinois, to Olney, Illinois, a distance of 360 miles. It has a capital stock of \$124,753 and a funded debt of \$8,024,000. Being in this financial situation, this company, on October 10, 1905, entered into a trackage agreement with the Cincinnati, Hamilton and Dayton Railway Company whereby that company is allowed to operate trains over its entire line for the compensation of \$5,000 per year, and the further agreement, on the part of the Cincinnati, Hamilton and Dayton Railway Company, to contribute to the maintenance of way and taxes of the company in proportion to its trackage as compared with the total trackage over the entire line by it and other companies. In practice the whole and entire service has been performed by the Cincinnati, Hamilton and Dayton Railway Company. Prior to this lease, the Cincinnati, Hamilton and Dayton Railway Company acquired control of this Company by stock ownership. The only funds received during the last year by the Cincinnati, Indianapolis and Western Railway Company was \$3,614 on trackage, none of which was expended, but all was on hand on the 30th of June last. The Cincinnati, Ham-

ilton and Dayton Railway Company during the year paid for this company \$352,418 of interest on its funded debt. The financial condition of the Cincinnati, Hamilton and Dayton Railway Company is as follows:

A receiver was appointed for that company on December 4, 1905, and is now operating that company as such, and in addition thereto is operating the line of the Cincinnati, Indianapolis and Western Railroad under the before-mentioned lease. On June 30 last the Cincinnati, Hamilton and Dayton Railway Company had on hand \$318,686 in cash, and its annual report shows that on that date it had a surplus of \$1,769,000.

The financial condition of the Big Four shows that on June 30 last it had on hand \$2,888,266 in cash, and its annual report shows also that it had on hand at that date a surplus of \$1,149,699.

The lease, or trackage agreement, between the C. H. & D. and the C. I. & W. has a provision in it whereby the C. H. & D. agrees to comply with all the laws of the States of Indiana and Illinois concerning the operation of railroads. The receiver in this case has filed a plea to the jurisdiction of the Commission over the subject-matter and over the person of the receiver. This plea was overruled. While the Commission concedes that the receiver operating this railroad under the order of the Federal Court would not be justified in making, nor could he be compelled to make physical connection between these lines of railroad and expend the trust funds in his hands for that purpose without the order of the court of his appointment authorizing him so to do, it is nevertheless true that while the court has taken possession of this property under the lease and is operating it for the purpose of making revenue for its receiver, the receiver must comply with all such provisions of the law as regulate the manner in which a railway company may exercise its franchise granted by the State; that is, if the receiver takes the benefits which accrue from the franchise the public has a right to demand at his hands the exercise and fulfillment of all the public duties which are enjoined upon the corporation.

The late act provides that receivers operating railroads in this State shall be subject to the provisions of the act and subject to the control of the Commission, and, therefore, we conclude that

if physical connection should be made between these railroads under the law, the duty primarily falls upon the parent company, the Cincinnati, Indianapolis and Western Railroad Company, and if the receiver continues to exercise the public functions of that company he must comply with the public duties devolving upon that company, and presumably the court of his appointment would so direct upon proper application.

Under the statute of this State, the duty of determining whether or not a connection should be made between these railroads devolves primarily upon this Commission, and it is a duty which can not be discharged in the first instance by any court. The statute provides that it shall be the duty of the Commission "to require and supervise the location and construction of sidings and connections between railroads." (Sec. 3.) Other provisions of the general railroad laws of the State provide that one railroad shall have the right "to cross, intersect, join, and unite its railroad with any other railroad before constructed, at any point on its route and upon the grounds of such other railroad company, with the necessary turn-outs, sidings, switches, and other conveniences, in furtherance of the objects of its connections; and every company whose railroad is or shall be hereafter intersected by any new railroad shall unite with the owners of such new railroad in forming such intersections and connections, and grant the facilities aforesaid." (Sec. 5153, par. 6, R. S. 1901.)

Other sections of the statute provide that railroad companies shall have specified times in which they shall operate their trains, and that they shall make reasonable provision "for the transportation of all such passengers and property as shall, within a reasonable time previous thereto, offer or be offered for transportation at the place of starting, at the junctions of other railroads, and at sidings and stopping places. * * * "(Sec. 5185, R. S. 1901.)

Paragraph B of Section 14 of the late act provides: "Every railroad company which shall fail or refuse, under such regulations as may be prescribed by the Commission, to receive and transport without unreasonable delay or discrimination the passengers, tonnage and cars, loaded or empty, of any connecting line of railroad company, and every railroad company which shall, under such regulations as may be prescribed by the Commission, fail or refuse

to transport and deliver without unreasonable delay or discrimination any passengers, tonnage or cars, loaded or empty, destined to any point on or over the line of any connecting line of railroad, shall be deemed guilty of unjust discrimination." (Acts 1905.)

From these provisions of the statute it is apparent that the legislature intended that all railroads which cross each other in this State shall make physical connection and interchange business.

The fact that the crossing in this case is not at grade, does not, in our judgment, modify or change the duties or responsibilities of the crossing lines. In fact, it is declared by the Legislature that wherever it is practical to do otherwise, railroads shall not hereafter cross at grade. (Sec. 5158A, R. S. 1901.)

It could not, with reason, be said that the Legislature intended that a compliance with this last statute would relieve the railroad companies of all the duties which attach to crossing lines under other provisions of the statute. It is the conclusion, therefore, of the Commission that the necessity exists in this case for a physical connection between these lines, and that the duty exists on the part of the companies to make the same, and that the Commission has authority to so order, *and an order will be entered accordingly.*

No. 56.—*Indianapolis & Louisville Railway Co. v. Southern Indiana Railway Company.*

E. C. Field for the petitioner.

W. T. Abbott and S. R. Hammil for the respondent.

1. This was an application by the petitioner to have the Commission prescribe the manner and terms for the crossing of the petitioner's railroad over the railroad of the respondent at Midland in Greene County.

2. Upon the filing of petition summons was issued and the hearing of the cause fixed for September 6, and on that date the respondent filed its answer.

3. The parties reported to the Commission that they had amicably arranged terms and conditions for the crossing, and were preparing plans for proposed interlocking machine to protect the same, and requesting that the further consideration of the cause be postponed, which was accordingly done.

No. 57.—*Ex parte, Pittsburg, Ft. Wayne & Chicago Railway Company and Michigan Central R. R. Company.*

1. Application for the approval of plans and inspection of the construction and operation of reconstructed interlocking plant for the protection of the crossing of these railroads at Tollestone.

2. Upon the plans being submitted they were referred to the Commission's consulting engineer, with directions to inspect the construction and operation of the plant, and upon his report coming in the plans and plant were approved and notices issued authorizing the operation of trains over this crossing without stopping after September 10, 1906.

No. 58.—*Evansville Oil Company v. Louisville & Nashville R. R. Co.*

T. M. Huneywill for petitioner.

C. A. DeBruler for respondent.

1. This was a verified petition charging that the respondent, which is a common carrier out of Evansville, Indiana, permitted the petitioner, a dealer in petroleum and its products, to ship to points south of Evansville only one day in each week, namely, on Tuesday, and to points west from Evansville only two days each week, namely, Tuesday and Friday, and charging that on account of such regulations the respondent unduly discriminated against petitioner in favor of the Standard Oil Company.

2. Subsequent to the filing of the petition, the respondent modified its rules, permitting petitioner to ship petroleum and its products west from Evansville three days in each week, which the petitioner reported to the Commission was satisfactory.

3. It appearing that the petitioner's traffic southward is wholly interstate, there being no stations on respondent's line in Indiana south of Evansville, therefore, there is not now pending in such cause, a matter of dispute, over which this Commission has jurisdiction, and the Commission having so concluded, the further hearing of the cause has been indefinitely postponed.

No. 59.—*Ex parte, Vandalia Railroad, long and short haul application.*

1. Application by the Vandalia Railroad Company to be allowed to haul live stock, cattle, sheep and hogs, from Frankfort, Indiana, to Indianapolis, Indiana, via Logansport and the P. C. C. & St. L. Railway Company at eight cents per hundred pounds, to meet the short line rate from Frankfort to Indianapolis, Indiana, via the Monon Railroad. Upon the petition being filed, notice of its pendency was published in the Indianapolis News.

2. The proof of notice being filed, and there being no objections, the Commission, after being advised, entered an order authorizing the petitioner in connection with the Pan Handle to so carry live stock from Frankfort to Indianapolis via Logansport at eight cents, notwithstanding the rates applying between Logansport and Indianapolis, Indiana, on the Pan Handle exceed such sum.

No. 60.—*Ex parte, Vandalia Railroad Co., long and short haul application.*

1. Application by the Vandalia Railroad Company to be permitted to charge less for hauling coal from mines on its line, Vincennes Division, to Lafayette, Indiana, via Indianapolis and the Lake Erie & Western Railroad Company, than it charges for hauling like coal to intermediate stations on the L. E. & W. Railroad between Indianapolis and Lafayette, Indiana. Petition was filed so as to enable the petitioner to meet the rates of the Monon Railroad on coal into Lafayette.

2. Notice of the application was published in the Indianapolis News, and time fixed for hearing, and upon proof of notice being filed, and there being no objections, the petition was considered by the Commission and an order made authorizing petitioner to haul coal from mines on its Vincennes division via Indianapolis and the Lake Erie & Western Railroad into Lafayette, Indiana, at 65 cents per ton, minimum weight 36,000 pounds, notwithstanding rates on such coal to intermediate stations between Indianapolis and Lafayette on the L. E. & W. are in excess of such sum.

No. 61.—*In the matter of the transfer of cars between the Southern Indiana and the Cleveland, Cincinnati, Chicago & St. Louis Railways at Terre Haute.*

S. R. Hammil for the Southern Indiana.

Frank L. Littleton for the Big Four.

1. These companies refused to interchange business with each other on the 8th day of August, 1906, and the embargo thereby arising continued until the 20th of August, when these companies, at the request of the Commission, resumed business, under a written agreement, submitting their controversy to the Commission for its determination.

2. The cause was submitted to the Commission, and evidence and argument heard on August 28th, 1906.

3. After consideration, the Commission determined the matter in favor of the Big Four Railroad Company and entered an order in accordance with its finding. The facts appearing in the cause and the conclusions of the Commission thereon appear in the following opinion:

McAdams, Commissioner.—Several years ago the Southern Indiana Railway Company constructed its line from the south portion of Indiana into Terre Haute. It entered the city running in a northwesterly direction, and its tracks terminated about 2,000 feet south of the Union Station, which is located on the Vandalia, E. & T. H. and C. & E. I. railroads in that city, and at the point where its tracks terminated it made a physical connection with such tracks. Long prior to the construction of the Southern Indiana the C. C. C. & St. L. Railroad had been constructed from Indianapolis to St. Louis, passing through the city of Terre Haute and entering such city from the northeast until it reached a point opposite the Union Station, where its direction is practically west. It also had physical connection with the tracks entering such Union Station. The general freight yards of the Southern Indiana Railroad are located at what is known as Hulman Street, in the city of Terre Haute, and the general freight yards of the Big Four Company are located at Duane at a point on its line northeast of the Union Station. The distance between the Hulman Street yards and the Duane yards is approximately four

the Southern Indiana for the transfer of cars, as heretofore practiced, and refuses to be longer bound thereby, and is now so making transfers solely at the request of the Commission, pending settlement of the dispute. This company insists that the transfer shall be made at Preston. The Southern Indiana accedes to the proposition that Preston is the most desirable place for making the transfer, but insists that on account of the fact that its yards are located some 8 1-3 miles from point of transfer that it should be allowed a reasonable compensation for taking such cars as the Big Four shall deliver to it at Preston to its Hulman Street yards.

The question, as it presents itself to the Commission, is one purely and entirely of law, and the rights of the parties must be determined according to the law, in so far as it has prescribed the duties of the respective companies. We find the following statutes which bear upon this subject:

Sec. 5153, R. S. 1901, reads as follows:

“Every such corporation shall possess the general powers and be subject to the liabilities and restrictions expressed in the special powers following.

“Sixth. To cross, intersect, join and unite its railroad with any other railroad before constructed at any point on its route and upon the grounds of such other railroad company, with the necessary turnouts, sidings, switches and other conveniences in furtherance of the objects of its connections; and every company, whose railroad is or shall be hereafter intersected by any new railroad, shall unite with the owners of such new railroad in forming such intersections and connections and grant the facilities aforesaid; and if the two corporations can not agree upon the amount of compensation to be made therefor or the points or manner of such crossings and connections, the same shall be ascertained and determined by commissioners to be appointed as is provided hereinafter in respect to the taking of lands; but this section is not to affect the rights or franchises heretofore granted.”

Section 5185, R. S. 1901, reads as follows:

“Every such corporation shall start and run its cars for the transportation of persons and property at regular

times to be fixed by a public notice and shall furnish sufficient accommodation for the transportation of all such passengers and property as shall, within a reasonable time previous thereto, offer or be offered for transportation at the place of starting at the junction of other railroads and at sidings and stopping places established for receiving and discharging way passengers and freight; and shall take, transport and discharge such passengers and property at, from, and to such places, on the due payment of tolls, freight or fare therefor."

In addition to the foregoing statutes certain provisions of Section 3 of the Act creating the Commission are also important in determining this question, and particular attention is directed to the following language:

"The power and authority is hereby vested in the Railroad Commission of Indiana, and it is hereby made its duty as hereinafter provided to supervise all railroad freight and passenger tariffs, and to adopt all necessary regulations to govern car service and the transfer and switching of cars from one railroad to another at junction points or where entering the same city or town, and to supervise charges therefor."

And again:

"The said Commission shall have power and it shall be its duty, as hereinafter provided, upon the failure of the railroad companies so to do, to fix and establish for all or any connecting lines of railroads in this State reasonable joint rates of freight, transfer and switching charges for the various classes of freight and cars that may pass over two or more lines of such railroads."

And again:

"The Commission shall enforce, as hereinafter provided, reasonable and just rates of charges for each railroad company subject hereto for the use or transportation of loaded or empty cars on its roads."

And again:

"The Commission shall have power to enforce reasonable rates, tolls or charges for all other service performed by any railroad subject hereto."

By virtue of the sections of the statute quoted, these railroads were clothed with certain rights, powers and duties. By the first section the Southern Indiana was given the right to cross the tracks of the Big Four at the point of intersection, together with the right to construct the "necessary turnouts, sidings, switches and other conveniences in furtherance of the objects of its connections." By the same statute the Big Four Company was compelled "to unite with the owners of such new railroad in forming such intersections and connections and grant the facilities aforesaid." The plain purpose of this statute was to give to a junior road an absolute right to cross and to unite its tracks with those of the senior road, and to compel the senior road to join in the connection and grant the necessary facilities therefor. This statute requires these facilities to be such as shall afford means for the transfer of cars from one line to the other. That was the only purpose to be accomplished by these requirements. Therefore, the rights given the junior road must be held to be sufficient for that purpose and those which the senior road must grant and join in establishing must be of like extent and character. This statute regulated the rights of these companies in the construction of this crossing.

The next statute quoted prescribes their duties after construction in the discharge of their obligations as common carriers for the public and for each other. In the consideration of this subject, we have taken into account only carload shipments and the return of empty cars. These companies have issued tariffs fixing through rates of freight on carload shipments to and from various points on their respective lines. The rates so fixed and the divisions thereof between the companies are not shown in the evidence, but we assume that the rates so fixed provided for the return of empty cars without charge, as is the usual practice.

A railroad is under the same obligations to receive and forward a car delivered to it by a connecting line as it is to receive and

forward a shipment delivered to it by an individual. The only striking difference in the two propositions is that carloads of freight and empty cars can move only on a railroad, while less than carload shipments may be handled differently. Therefore, the inquiry is: *What are the respective duties of these companies to each other under the law and the facts in this cause, they having failed and refused to longer agree on terms for the interchange of traffic?* The last statute referred to requires each carrier of start its trains at specified times and to furnish "sufficient accommodations for the transportation of all such * * * property as shall within a reasonable time previous thereto * * * be offered for transportation * * * at the junction of other railroads * * * and shall take, transport and discharge such * * * property at, from or to such places, on the due payment of tolls, freight or fare therefor."

The plain duty and obligation of these companies, as prescribed by this statute, seem to be to interchange their carload business at the junction point and to there provide proper facilities for so doing. The fact that in practice roads very frequently enter into agreements mutually satisfactory and advantageous to them, to do otherwise does not change their legal obligations to each other and the public when they fail to longer agree.

This being the state of the law, when this Commission was created, it remains to inquire what if any change the late act has made in the duties and obligations of these companies.

In the consideration of the act it is proper to keep in mind the previous law and the practices of the railroads under the same, and the powers and duties of the companies as prescribed by common law. No one would claim for a moment that any railroad could be compelled to operate its trains over some other railroad that it did not own, or that one railroad could be compelled to pay to another railroad a compensation for a service not performed for it. It is also a well-known fact that through shipments are sometimes made over a route where there is an intervening carrier, which is not a party to the through route and rate, and which acts only as a transfer line from one of the joint carriers to the other joint carrier at some terminal point and exacts a transfer charge for the service so rendered. It is this last

charge which we believe is covered by the language used in Section 3 of the Act, where it is said that the Commission shall "adopt all necessary regulations to govern * * * the transfer * * * of cars from one railroad to another at junction points, or where entering the same city or town, and to supervise charges therefor."

The next provision found in the Act makes it the duty of the Commission "upon the failure of the railroad companies so to do to fix and establish for all or any connecting lines of railroad in this State reasonable joint rates of * * * transfer * * * charges for the various classes of freight and cars that may pass over two or more lines of such railroad." The very language of this provision forbids its application to this case. Here, the Southern Indiana insists upon a charge being fixed by the Commission, which the Big Four shall pay to it, for taking cars from the connection at Preston to its Hulman Street yards. By no stretch of the imagination could such a charge, if imposed, be called a joint rate, such as the Commission would be authorized to make by the statute quoted. This clause in the statute refers solely to charges which are to be paid by the shipper to the railroad for a service performed for the owner of the freight. It means the exact same thing when used earlier in this statute, except in the latter case it applies solely to joint traffic.

The next subdivision provides that the Commission "shall enforce * * * reasonable and just rates and charges for each railroad company subject hereto for the use or transportation of loaded or empty cars on its roads." This provision simply restates the former powers given by the statute, except that it is applied solely to the use of empty or loaded cars, or the transportation of loaded or empty cars from one railroad to another railroad, or some individual. Therefore, what application could it have to this case? Clearly none; unless we can find from the evidence, and from the law, that a duty devolves upon the Big Four to deliver its cars for Southern Indiana points to the Hulman Street yards of that company. That the statutes cited create no such duty is entirely clear and the duties and obligations of the companies being defined by law, forbids the Commission from evolving other or different duties from the facts. After the South-

ern Indiana accepts cars from the Big Four at the junction point in pursuance of its duty as a connecting carrier, then all subsequent service performed by it is a service due from it to the shipper, or to itself, and not a service due to the Big Four for which it can demand or receive compensation from that company. The same reason forbids the application of the other powers given the Commission where it is given authority to "enforce reasonable rates, tolls or charges for all other service performed by any railroad subject hereto." This language implies a service rendered by the company to some other company or person and not a service rendered for itself or for some other person where a charge is already fixed by the current rate.

We conclude, therefore, that the Commission can not impose any rates, charges or arbitrary allowances for or in behalf of either of these companies on account of the performance of their legal duties to interchange traffic at the junction point. While this is true, the Commission is not without authority in this proceeding to determine in what manner or under what rules the transfer shall be made or to require increased or different facilities for the dispatch of the joint business of the companies at that point. Upon this subject we find that the tracks now constructed and in use are sufficient for that purpose and that the Southern Indiana should make deliveries upon its side track which parallels the Big Four and that the Big Four should be authorized to enter such track at the west end thereof for the purpose only of removing the cars so delivered and that the Big Four should make deliveries of cars to the Southern Indiana on its side track connecting with the Southern Indiana at Preston, and that the Southern Indiana should be authorized to enter such track at the east end thereof for the purpose only of removing the cars so delivered.

The point of delivery being away from the yards of the companies, the Commission determines that the interchange of cars or carload traffic at this point should be conducted jointly by the companies, and that they share equally in the expense thereof.

In the determination of this question, the Commission has not considered the relative service to be performed by each of the companies in making the interchange, as it finds that it is with-

out authority in this proceeding to adjust the same, if there be any discrepancy therein. The whole service is covered by the through rates published by the companies and the companies must adjust the division thereof upon the basis of service performed, and, in case of failure to agree thereon, then the Commission, upon proper application, may adjust their differences.

No. 62.—*Ex parte, Elgin, Joliet & Eastern Railway Company, and Pittsburg, Ft. Wayne & Chicago Railway Company.*

1. Application for the approval of plans and the inspection of the construction and operation of an interlocking plant for the protection of the crossing of these lines at Hobart.

2. The plans were referred to the Commission's consulting engineer with directions to inspect the construction and operation of the plant, and upon his report coming in the plans and plant were approved and notices were issued authorizing the operation of trains over this crossing without stopping after September 10, 1906.

No. 63.—*National Refining Company, The Tiona Refining Company and the Evansville Oil Company v. Baltimore & Ohio Railway Co. and forty other steam railroads doing business in Indiana.*

Kingsbury & Collier for petitioners.

Miller, Shirley & Miller et al. for respondents.

1. This is a verified petition charging in substance that the respondent railway companies in 1899 changed the classification of petroleum and its products from fifth to fourth class in carloads, and that the railroad companies apply such fourth class rates against the petitioners and other independent oil companies from Indianapolis, South Bend, Lafayette, Evansville and Ft. Wayne to various points in Indiana, and that the companies have issued special commodity tariffs on petroleum and its products from Whiting, Indiana, to the same points in Indiana, and that the last mentioned commodity rates are much less than the fourth class rates obtaining at the other points of shipment and operate solely for the benefit of the Standard Oil Company.

2. After this petition was filed the railway companies, mem-

bers of the Central Freight Association, agreed to restore petroleum and its products to the fifth class in carloads and third class in less than carloads, to become effective November 1, 1906, and at the request of the railroad companies and the petitioners the rule operating against the respondents, requiring them to answer the petition was suspended until November 15, 1906.

3. On October 18, 1906, the petitioners informed the Commission that the petitioners and the respondents had been unable to come to a satisfactory understanding concerning the controversy, and the cause was accordingly assigned for a hearing on December 17, 1906.

No. 64.—*Ex parte, Vandalia Railroad Company, long and short haul application.*

1. This was a petition by the Vandalia Railroad Company to be allowed to charge less for hauling coal from mines on its railroad, St. Louis division, to Lafayette, Indiana, via Frankfort and the Lake Erie & Western Railroad, than it charges for like coal for stations intermediate between Lafayette, Indiana, and Frankfort, Indiana. Upon petition being filed, notice of its pendency was published in the Banner-News at Frankfort, and the Morning Journal at Lafayette, Indiana.

2. Upon proof of notice being filed and there being no objection to petition, and it appearing that petitioner desires this rate so as to meet the rate into Lafayette made by the Monon Railroad, an order was accordingly issued permitting petitioner to so carry coal into Lafayette at 55 cents per ton, notwithstanding higher rates are in force on the L. E. & W. Railroad for stations between Frankfort and Lafayette, Indiana.

No. 65.—*Ex parte, Wabash Railroad Co., and Cleveland, Cincinnati, Chicago & St. Louis Railway Company.*

1. Application for the approval of plans and the inspection of the construction and operation of an interlocking plant to protect the crossing of these lines at New Paris.

2. The plans were referred to the Commission's consulting engineer, with directions to inspect the construction and operation of the plant and examine the plans, and upon his report coming

in the plans and plant were approved and notices issued authorizing the operation of trains over this crossing without stopping after October 1, 1906.

No. 66.—*Ex parte, Northern Indiana Ry. Co., and Michigan Central Railroad Company.*

1. Application by these companies for the approval of plans for a crossing device for the protection of the crossing of these lines near South Bend, Indiana.

2. The crossing device proposed was for the protection of the crossing of the electric line over a spur track from the Michigan Central line into the grounds of Notre Dame University. The scheme consists of a crossing gate with Hayes derails in the line of the Michigan Central, which is a slow speed track and presumably but seldom used. With this statement we quote from the report of the consulting engineer:

"This scheme contemplates that the gate provided shall be swung across the tracks of the Michigan Central at all times except when it is using the crossing. It also provides that the gate shall be connected with the Hayes derails in the Michigan Central tracks. Protection is afforded the electric line against the steam railroad but does not protect the steam railroad against the electric line, except in swinging this gate over the tracks of the latter when the former are in use. A signal or a crossing gate can not be regarded as sufficient protection to permit the running of a crossing at any time when it is to be the practice as at this crossing to give the electric line a clear track except on the infrequent occasions when the Michigan Central may be using it. It is more objectionable as a signal. Trainmen, at best, do not at all times regard signals and this is especially true when it is the custom to find them at safety, and while the light cars used by electric lines could not do much damage to those of steam roads, when in collision, such a collision could cause great injury and loss of life to their own passengers.

"The plan submitted to your Commission by the Northern Indiana Railway Company for the protection of their

crossing with a spur track of the Michigan Central Railway at South Bend, Indiana, presents a scheme that has never been considered as complying with the laws of this State."

Upon this report being filed, the plans were considered by the Commission and disapproved, and the companies notified accordingly.

No. 67.—*Ex parte, Pittsburgh, Ft. Wayne & Chicago Railway Company, and Chicago Terminal Transfer R. R. Co.*

1. Application for the approval of plans to protect the crossing of these lines at Whiting, Indiana.

2. The plans proposed were submitted to the Commission's consulting engineer, and upon his report coming in the plans were approved and the plant is now under construction.

No. 68.—*Ex parte, Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company, Cleveland, Cincinnati, Chicago & St. Louis Railway Company, and Baltimore & Ohio Southwestern Railway Company.*

1. Application for the approval of plans for the reconstruction of an interlocking plant at the crossing of these lines at Jeffersonville.

2. The plans proposed were referred to the Commission's consulting engineer for examination, and upon his report coming in the plans were approved and the plant is now being reconstructed.

No. 69.—*Ex parte, Chicago, Cincinnati, Chicago & St. Louis Ry. Co., Chicago, Indiana & Southern R. R. Co., and Chicago & Erie Railroad Company.*

1. Application by these lines for the approval of plans for additions to the interlocking machine heretofore constructed at the crossing of these lines at Highlands, Indiana, so as to include the Chicago, Cincinnati & Louisville Railroad Company.

2. The plans proposed were submitted to the Commission's consulting engineer, and upon his report being filed the plans were approved and the plant is now being enlarged accordingly.

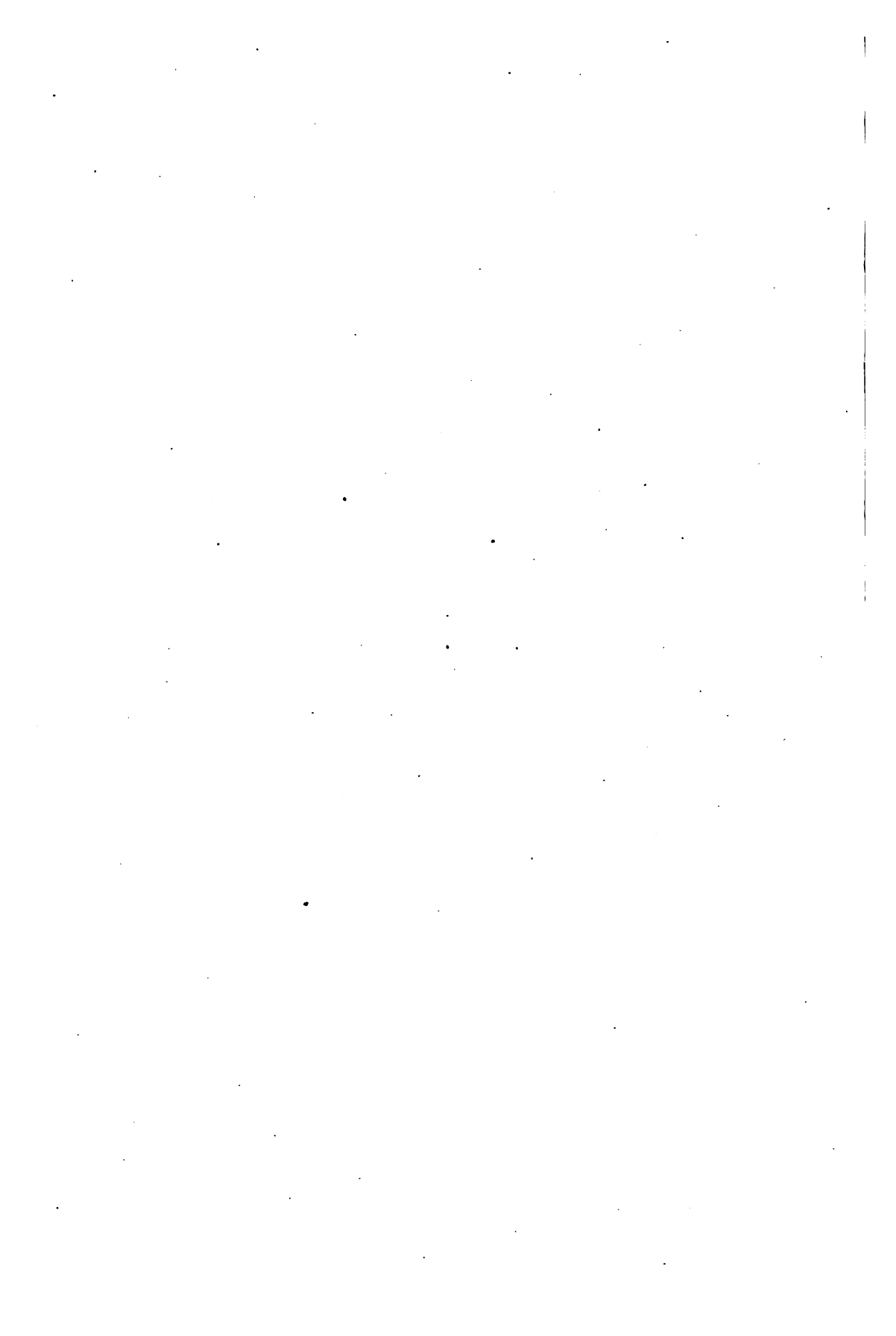
No. 70.—*Ex parte, Chicago & Erie R. R. Co., and New York,
Chicago & St. Louis R. R. Co.*

1. This is an application by these companies for the inspection of plans for a proposed interlocker at the crossing of these lines at the draw bridge near Hammond, in Lake County,

2. The plans were referred to the Commission's consulting engineer, and upon his report coming in the plans were approved by the Commission and the plant is now in course of construction.

APPENDIX II.

Informal Proceedings.



Adjustments.

COAL RATES.

No. 1.—*T. D. Scales Coal Co. v. P. C. C. & St. L. and Southern Railway Companies.*

Informal complaint concerning coal rates from mines on Southern Railway to Jeffersonville. Conference held May 27, 1905, at Capital. Concession of 10 cents per ton granted by Pan Handle out of its portion of the rate.

Old through rate, 65 cents; new through rate, 55 cents; reduction, 10 cents.

This reduction in rates resulted in Indiana miners obtaining two annual contracts for the coal supply at the Indiana Reformatory, which had theretofore been supplied by dealers in Pittsburg coal.

STONE RATES.

No. 2.—*C. W. Lee v. Monon Railway.*

Complainant shipped stone in carloads from Clear Creek, on the Monon, to Lizton, on the Big Four, via Crawfordsville. The Monon charged \$80 per car. Total haul 98 miles. Conference had with General Freight Agent of Monon Company; refused to make any reduction in rates. Petitioner declined to file formal petition.

COAL RATES.

No. 3.—*Coal Rates on Southern Railway.*

This inquiry was instituted by R. Y. Thomas, of English. He was instructed that the Commission could not act except upon verified complaint. After suggestion, he took the subject up with the Company, and the negotiations resulted in the publishing of a new coal tariff on the Southern, in Indiana, which became effective on July 1, 1905. This tariff remained in force until October 23, 1905, when a new tariff was published, which, with few exceptions, is now in force. The rates in force at the organization of the Commission and the present rates are here set forth for the entire line in Indiana:

COAL RATES ON SOUTHERN RAILWAY.

To	Rates Prior to July 1, 1905.				Rates in Effect October 23, 1905.			
	From Group				From Group			
	1	2	3	4	1	2	3	4
E. Mt. Carmel.....	50	50	60	65	50	50	60	65
Parkers Switch.....	50	50	60	65	50	50	60	65
Becks.....	50	50	60	65	50	50	60	65
Lykes.....	50	50	60	65	50	50	60	65
Princeton.....	35	35	45	50	35	35	45	50
Francisco.....	35	35	45	50	35	35	45	50
Oakland City.....	30	30	35	40	30	30	35	40
Winslow.....	35	35	45	50	35	35	45	50
Hartwell.....	35	35	45	50	35	35	45	50
Veepen.....	50	50	50	55	50	50	50	55
Duff.....	50	50	50	55	50	50	50	55
Huntingburg.....	50	50	50	55	50	50	50	55
Bretsville.....	60	60	60	65	60	60	60	65
St. Anthony.....	60	60	60	65	60	60	60	65
Kyana.....	60	60	60	65	60	60	60	65
Mentor.....	60	60	60	65	60	60	60	65
Birdseye.....	75	75	75	80	70	70	70	75
Riceville.....	75	75	75	80	70	70	70	75
Eckerty.....	75	75	75	80	70	70	70	75
Taswell.....	75	75	75	80	70	70	70	75
English.....	75	75	75	80	70	70	70	75
Temple.....	80	80	80	85	75	75	75	80
Marengo.....	80	80	80	85	75	75	75	80
Milltown.....	80	80	80	85	75	75	75	80
Depauw.....	80	80	80	85	75	75	75	80
Ramsey.....	80	80	80	85	75	75	75	80
Corydon Jct.....	80	80	80	85	75	75	75	80
Corydon.....	80	80	80	85	75	75	75	80
Mott.....	80	90	80	85	75	75	75	80
Crandall.....	80	80	80	85	75	75	75	80
Georgetown.....	80	80	80	85	75	75	75	80
Duncan.....	80	80	80	85	75	75	75	80
New Albany.....	50	50	50	50	50	50	50	50
Jasper.....	50	50	50	55	50	50	50	55
Ferdinand.....	50	50	50	50	50	50	50	50
Dale.....	50	50	40	40	50	50	40	40
Lincoln City.....	50	50	40	40	50	50	40	40
Gentryville.....	50	50	40	40	50	50	40	40
Pigeon.....	50	50	40	40	50	50	40	40
Tenneson.....	50	50	40	40	50	50	40	40
De Gonia.....	50	50	40	40	50	50	40	40
Boonville.....	50	50	40	40	50	50	40	40
Chandler.....	50	50	40	40	50	50	40	40
Stevenson.....	50	50	40	40	50	50	40	40
Smythe.....	40	40	40	40	40	40	40	40
Evansville.....	40	40	40	40	40	40	40	40
Bradley.....	50	50	40	40	50	50	40	40
Chrisney.....	50	50	40	40	50	50	40	40
Rock Hill.....	50	50	45	45	50	50	45	45
Rockport.....	50	50	45	45	50	50	45	45
Buffalo.....	50	50	40	40	50	50	40	40
Kennedys.....	50	50	40	40	50	50	40	40
Lamars.....	50	50	40	40	50	50	40	40
Evanston.....	50	50	40	40	50	50	40	40
Troy.....	50	50	40	40	50	50	40	40
Tell City.....	50	50	40	40	50	50	40	40
Cannelton.....	50	50	40	40	50	50	40	40

Group 1—Princeton and Francisco.

Group 2—Ayrshire, Oakland City, Winslow and Hartwell.

Group 3—Boonville Mines.

Group 4—Troy and Cannelton.

SWITCHING CHARGES.

No. 4.—*Polar Ice & Fuel Co. and others v. Big Four Railway Co.*

The complainants in this matter were some twelve firms having private switches connected with the Chicago Division of this Company north of 16th and south of 22d streets in Indianapolis. Complaint concerning switching charge of \$4 per car, while switching service south of 16th street is performed for \$2 per car. Company notified and public hearing had. General inquiry upon subject of switching charges in Indianapolis. Complaint fully sustained by evidence. It appeared that industries located on the Union Railway, or belt, have switching performed for \$1 per car. That the uniform charge for serving private tracks off the belt is \$2 per car, with exceptions. That this company charged the Udell Works north of 22d street \$4 per car, and rebated \$1 under contract, for constructing switch. Commission recommended a reduction to \$2 per car between 16th and 22d streets. The company finally reduced the charge to \$3, which the petitioners accepted for the present. Subsequently this rate was reduced to \$2.

INTERCHANGE OF SWITCHING—UNJUST
DISCRIMINATION.No. 5.—*Elwood Electric Light Co. v. P. C. C. & St. L. and L. E. & W. Ry. Cos.*

1. In this case it appeared that these companies refused to interchange cars for shipment of grain and grain products at Elwood, although they freely interchanged on all other traffic. Upon inquiry, held at Elwood August 8, 1905, the representatives of the companies could give no excuse for this failure to interchange all business, and upon the request of the Commission the companies put in effect an order directing the interchange of all business at that point, and the change was also made to apply at Redkey, Hartford City and Kokomo.

2. Information came to the Commission that the coal rates from Indiana mines to Elwood were such as to unjustly discriminate against a considerable number of consumers. Acting on this

information the Commission held a session on August 8, 1905, at the City Hall in Elwood. The representatives of the companies were present in person and represented by counsel. It developed that the rates from Indiana mines to Elwood were 60 cents for manufacturers having an outgoing tonnage; 75 cents for steaming purposes, where there is no outgoing product, such as light, water and gas companies, and 85 cents for domestic consumption. The hearing was continued at the capital on August 25, 1905, and by consent of the Commission, at request of the various carriers interested, the inquiry was widened so as to cover all the territory in the State embraced in what is commonly known as the "Indiana Gas Belt." The inquiry developed the fact that the situation and rates in the entire territory were substantially the same as those found to exist at Elwood. The inquiry also developed the facts that if these rates were set aside a new adjustment in all this territory would have to be made, resulting probably in higher coal rates to all the Gas Belt, and that such readjustment, if it so resulted, would probably close half the factories in this territory and cause Ohio and West Virginia coals to be used in preference to Indiana coal now in use. After taking much evidence from coal miners, dealers, and all classes of consumers, and after considering the briefs of counsel, the Commission concluded that the rates so maintained were not unjust discrimination.

The opinions of the Commission follow:

Wood, Commissioner.—The Commission delegated its secretary to investigate certain traffic matters at Elwood, Indiana, and his report is confirmed by the evidence given at informal sessions of the Commission at Elwood, August 8, 1905, and at Indianapolis, August 25, 1905.

The refusal of the Lake Erie and Pennsylvania railroads to interchange grain and grain products, as well as coal rates, was involved in the inquiry. These companies, as a consequence of this investigation, and at the request of the Commission, have agreed hereafter to interchange grain and grain products, not only at Elwood, but at all other junction points in Indiana.

With reference to the coal rates, there is no controversy about the facts, and there does not seem to have been any inten-

tion to conceal them from those who were directly interested. Mr. Harting, manager of the Elwood Electric Light Plant, testified that prior to April, 1903, "there was a large flow of gas, and there was a uniform rate of 70 cents per ton on coal. Every one paid that, and I think the change was made two years ago the first of April." Mr. Perkins, general ore and coal agent of the Pennsylvania Railroad Company, testified that about that time "when the gas began to fail, they (the manufacturers) came to the railroads and said: 'We are going to pull up stakes and leave Indiana unless you make us a rate on fuel that will justify us in remaining here.'" This was the only ground on which the railroads made this rate, and we felt it was absolutely essential if these manufacturers stayed here. We felt that we ought to do something, and we thought we were doing something to help them when we made this rate. We made a coal rate which did not cover more than cost * * *. We did it to protect our interests, because if we did not these manufacturers would go away. We had a great deal of traffic, and consequently money out of them as shippers. After a period of time expense increased so that we could not stand a 50-cent rate, and we advanced it to 60 cents." Mr. Perkins described the rates so made as follows: "The tariffs called for an 85-cent rate on domestic, and we made the rate of 75 cents on steam coal in the territory bounded by New Castle and Dunkirk and Kokomo in the Gas Belt—all the points in there. We did not publish anything more than that, but we made a list comprising the manufacturers (we tried to put into that everybody in these Belt towns), and we arranged with the men who sold the coal to sell on a basis of 60 cents, and then he presented their bill of 75 cents and we settled with him." The witness also stated that the rate did not apply to flour-mill plants, to water works and electric light plants, because, he said, the flour-mill plants "are already here, and have been here all the time; there is not any condition that would make them go away," and the electric light and water plants were not included "because they manufactured nothing to be shipped out." Mr. Kcavy of the Big Four said: "The coal rate is made at a sacrifice rate to maintain these communities, and secure the out-bound business." Mr. Sweet, of the Lake Erie & Western, said: "On a car of thirty tons, our part of the rate is 24 cents a ton. If loaded

in foreign cars we pay 20 cents a day for use of the cars, so that we have \$4.20 left for hauling the loaded cars 100 miles and return. We consider that we lose money on every car that we haul. We figure that we protect ourselves by the outbound business. The coal rate is made exceedingly low for the purpose of maintaining the factories in the Gas Belt."

This is the testimony of the general agents of the railroad companies who made these rates, and there is nothing in the testimony of a great many intelligent witnesses, greatly interested in the outcome of this investigation, to contradict them. We find:

1. When natural gas gave out in the Gas Belt the railroad companies published a rate of 85 cents a ton on coal used for domestic purposes, and 75 cents a ton on coal used for steam; and made also a special rate of 50 cents, afterwards increased to 60 cents a ton, open to all manufactories in this section, except flour-mill plants and electric light and water plants. Flour mills were excepted because they were situated here and in every part of the State before and after gas was used and gave out, "and would not move away," and electric light and water plants because, practically, they provided no out-bound business. These mills used the steam rate of 75 cents.

2. There is no demand for a reduction of the rate in domestic coal, and the rate by comparison is a little lower than the rate for domestic coal to most other localities, about the same distance from the mines.

3. There is no demand for a reduction of the rate on steam coal.

4. The manufacturers' rate, while as much as the traffic can possibly bear, is not unreasonably high by comparison. For instance, manufacturers in Cleveland, Ohio, district, pay a rate of 70 cents for a haul of 90 miles, while the haul of Indiana coal to the Gas Belt, at the 60-cent rate, will average from 150 to 185 miles.

5. With the 60-cent rate it is nevertheless difficult to maintain certain classes of manufacture. For instance, tin plate plants located in the Pittsburgh district will start and run before the Gas Belt plants belonging to the same company can commence, the difference, even on the 60-cent basis, in the price of fuel being 40 to 50 cents a ton in favor of the Pittsburgh plants.

6. Of the 8,000 factories in Indiana, about 900 are in the Gas Belt, for which these special rates were made, namely: In Madison County, 250; Grant, 203; Delaware, 175; Henry, 93; Howard, 88, and Blackford, 71.

7. The fuel situation is the life blood of these manufactories. Some mills are shut down now on account of the increase of rate from 50 to 60 cents. Some have not yet been equipped to use coal, and if the rate is raised will never be so equipped.

8. There is no present intention to increase the manufacturers' rate, but railroad officials claim that any readjustment would operate in that direction. If the rate was increased from one-half to three-fourths of the industries in the Gas Belt would shut down or move away.

9. Indiana coals used in the Gas Belt come in competition with West Virginia and Ohio coals. These foreign coals are considered better for making producer gas and for use in some of the factories, and the rate on these coals to the Gas Belt is from \$1.30 to \$1.60 a ton. The haul is 225 to 350 miles; for Indiana coals 150 to 185 miles. Any increase in the rate on Indiana coal would result in the use of foreign coals to the exclusion of Indiana coals.

10. The output of coal from Indiana mines is excessive. Two years ago it was sold at the mines at 50 cents a ton, and one year ago, at 25 cents a ton more than it brings now. The price now is only \$1 to \$1.10, mine run. Some of the mines are not running, some are on short time, and a great deal of business is being handled at a loss.

11. Therefore, we find that an increase in the rates on Indiana coals would ruin not only the Gas Belt, but would mean also great disaster and loss to the mining interests or coal region of the State.

It is well known that the manufacturing business of the United States is growing more rapidly than that of any other country. A few years ago the value of our exports of manufactured products was only ten per cent. of our entire exports. For the fiscal year ending June 30, 1905, they were nearly 40 per cent. of the entire exports. So that as valuable as are the agricultural and mineral resources of the State, manufactures also constitute a large part of her resources, and inasmuch as Indiana is situated

near the center, both of population and manufacture in the United States, it is certain that manufacture will continue rapidly to grow and expand in this State.

The great problem of getting coal, their only available fuel, from one part of the State to seven thousand factories located in other parts of the State, interstate business, within the jurisdiction of the Commission, will of course attract the best efforts of the Commission because it affects the upbuilding of the State. And these issues are included in the investigation made by the Commission in this case.

The direct question presented is, whether the carrier can lawfully make a lower rate on coal to manufacturers who produce something for him to carry out, than for domestic consumers, or for steam power to plants who provide no outbound business. The first subdivision of Section 14 of the Railroad Commission Act provides:

“If any railroad subject hereto, directly or indirectly, or by any special rate, rebate, drawback or other device, shall charge, demand, collect or receive from any person, firm or corporation a greater or less compensation for any service rendered or to be rendered by it than it charges, demands, collects or receives from any person, firm or corporation, for doing a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such railroad shall be deemed guilty of unjust discrimination, which is hereby prohibited.”

Other parts of the same section, and Section 15, are directed against the same offenses, and they all mean substantially that the railroad company must charge every shipper the same “for doing a like and contemporaneous service in the transportation of a like kind of traffic, under substantially similar circumstances and conditions.” This means simply that there should not be unreasonable or unjust discrimination, and, unreasonable and unjust discrimination is more a question of fact than a question of law.

So far as this is a question of law we shall hold that such gen-

eral preferences in rates as are presented in this hearing may be justified. If railroad transportation, and the currents of affairs and business dependent on such transportation, were just commencing, it might be possible to construe the Indiana statute as an absolute rule of action, prohibiting any difference in charge for the same carriage. But the common law forbade unjust discrimination, and so, likewise, statutes of Great Britain and of the States of the Union and of the United States, notably the Interstate Commerce Act in the identical words of our statute, long before the Railroad Commission Act of Indiana passed the legislature. As a matter of law we must presume that the legislature had in mind the construction given to former, similar acts by the courts (*McDonald v. Hovey*, 110 U. S. 619; *Interstate Com. Com. v. B. & O. Rd.*, 145 U. S. 264). And so also we must as a matter of fact, not suppose that the legislature intended to do anything so foolish and disastrous as to destroy the business and property of a large class of the people of the State, and a construction to prevent this must be adopted if possible and consistent. Or, expressed in another way, we know that the General Assembly of Indiana was sufficiently enlightened as to railroad traffic and the customs of business as not to make a law whose effect could be: first—to render it impossible for our manufacturers to compete with those in other States; second—reduce the price paid for labor, because a high rate on coal would necessarily mean a low wage to labor; third—shut down the factories, destroying property worth large sums of money, and depriving the farmers of the State of a market; fourth—shut down the mines and stop the distribution of more than a million dollars to Indiana miners; fifth—decrease the revenue of the carrying companies to a point where they could not afford the best shipping facilities. Yet, just such absurd consequences would follow the application of an inflexible rule of discrimination to the conditions of transportation in the Gas Belt. And really that there was no such intention in the legislature, and no desire for such drastic and fatal legislation is shown in the common sense of manufacturers in all other parts of the State, who have never objected to, or complained of, the low rates given to factories in the Gas Belt to prevent their destruction.

Without citing common law authorities or British decisions we may come at once to the construction by the United States Supreme Court of the Interstate Commerce Act, our Section 14, being the same as Section 2 of that Act. The Supreme Court held (*Interstate Com. Co. v. B. & O. Rd. Co.*, 145 U. S. 264) that Railway Companies are only bound under the Interstate Commerce Act, to give the same terms to all persons alike, under the same conditions and circumstances, and any fact which produces an inequality of conditions and a change of circumstances, justifies an inequality of charge." The case was where a cheaper rate was given over the same line the same distance to parties of ten, than to one person. It was contended in that case, on the one hand, that the inequality of the charge itself created an offense, and on the other, that it is only where the discrimination inures to the undue advantage of one man in consequence of some injustice inflicted on another. The court sustained the latter contention, saying: "The unlawfulness defined by Sections 2 and 3 (identical in phraseology with the Indiana Statute) consists either in an 'unjust discrimination' or 'an undue or unreasonable preference or advantage.'" In a subsequent case in the same court, viz.: *Cin. N. O. & T. P. R. Co. v. Interstate Com. Com.*, 162 U. S. 184, the court quotes and approved the words of Judge Jackson in the *B. & O.* case, saying that "Subject to the two leading prohibitions, that these charges shall not be unjust or unreasonable, and that they shall not unjustly discriminate so as to give undue preference or advantage, or subject to undue disadvantage or prejudice, persons or traffic similarly circumstanced, the Act to regulate commerce leaves common carriers as they were at common law, free to make special contracts looking to the increase of their business, to classify their traffic, to adjust and apportion their rates, so as to meet the necessities of commerce, and generally to manage these important interests upon the same principles which are regarded as sound and adopted in other trades and pursuits."

In the State courts there are cases directly in point. In *Hoover v. Penn. R. R.*, 156 Penn. State Rep., p. 220, it is expressly decided: "A railroad company may charge a lower rate for coal transported to a manufacturing establishment from which it ob-

tains manufactured products for transportation than to a coal dealer, whose business with the railroad company is limited merely to the coal transported. In such case there is no equality of conditions which will justify the coal dealer in demanding the rate which is given to the manufacturing company." The reason set out by the court is equally conclusive of this investigation. "The business of the plaintiffs paid but one freight to the defendant, while the business of the nail company paid not only that freight, to wit: for hauling the coal to the nail works, but, also, in addition to that, another and entirely independent freight to the defendant on all the products manufactured by the nail company. This was a most important and vital difference in the circumstances and conditions of the two shipments. The authorities are very clear and strong that when an additional freight is obtained by means of a lower charge the discrimination is justified, both at common law and under the statutes." This case reviews the subject elaborately, and explains the absence of legal authorities in a way which adds even more force to the opinion: "It remains only to be added that differences of freight rates on coal to manufacturers and to mere dealers are, and have been, for many years, in universal practice, and not a single case, other than this, has as yet reached the courts of the last resort in the United States, questioning the entire legality and propriety of such differences, and that circumstance is ample proof that both the profession and lay mind has assented to the difference."

The Pennsylvania case, the first, and up to that time, the only case directly in point, was decided in 1894. In June, 1904, the Supreme Court of Mississippi, in *Laurell Cotton Mills v. Gulf & S. I. Rd. Co.* (35 A. & E. Rd. Rep. 471), considered a milling in transit arrangement made by the railroad company with the cotton mill, to the effect that freight on the raw material should be credited on the freight bills of the manufactured goods going out. The court held that such a contract did not violate Sections 2 and 3 of the Interstate Commerce Act, nor the Mississippi statute. "All special contracts are not forbidden or condemned, but only such as operate unfairly and evidence undue favoritism toward one to deprive another of his rights." "We accept," say the court, referring to the *B. & O. Rd. Case*, 145 U.

S. 264, "the construction placed on Sections 2 and 3 of the Interstate Commerce Act by the Supreme Court of the United States, as applicable to the corresponding provisions of our own statutes, and it is manifest that all discriminations are not forbidden by either statute, but only discriminations in transportation against some person, locality or corporation, made for the advantage of the carrier, or by receiving greater or less compensation from one class of persons than from another for similar services, contemporaneously rendered." So, also, the Court of Appeals of Kentucky, June, 1900, (*L. & N. Rd. Co. v. Commonwealth*, 57 South Western 508) held squarely that: "A railroad company may charge less for hauling coal used for manufacturing purposes than it charges for hauling coal used for domestic purposes, as the fact that the company receives the manufactured product for return shipment in the one case, and not in the other, constitutes a difference in conditions which authorizes a difference in charges."

Our attention has been called to the case of *Wight v. U. S.* (167 U. S. 512); *L. E. & St. L. v. Wilson* (132 Ind. 517); and *Capital City Gas Company v. Central Vermont Rd.* (11 Interstate Com. Com. 104); but these were all cases where the facts showed glaring discrimination, clearly forbidden by the law.

We are aware also that it is held that the phrase "under substantially similar circumstances and conditions," as used in the second section Interstate Commerce Act (same as Section 14, Ind. Act), refers only to the matter of the carriage and excludes competition and other extraneous matters (*Interstate Com. Com. v. Ala. Mid. Ry.*, 168 U. S. p. 144). Conceding this, the transportation of coal to the Gas Belt, to make outbound business for the carrier was an essentially different circumstance or condition of this same carriage, than the case of the domestic or steam consumer, where the carriage did not go on but ceased as soon as the coal was delivered. In other words, the carriage of the coal was not only necessary to provide additional outbound business but may be said to be an actual part of such other business, and a part of such other carriage of such business, as much so as any other raw material would be. "Nor is it a forced construction of the statute to hold that where the product finally goes forward to

the point of consumption it but completes the journey upon which it entered when the raw material was taken up." (Interstate Com. Rep. Vol. 10, p. 213).

We have only to look then at this carriage, only on this line of railroad and its connections to see the coal taken up, delivered to the factory, its power there converted into cloth, hardware, glass, what not, and the carriage in these new forms continued by the carrier to other points. In the case of the domestic consumer the coal is converted only into heat which can not be carried further, or ashes which need only the winds for further transportation. In order therefore to hold that there is no discrimination here, it is not necessary to consider any extraneous carriage, competition, or circumstance or condition. The carriage of this coal did not stop at the place of consumption, but, converted into other tonnage, was carried on to the destination of the outbound business. This was only a milling in transit rate or "some similar arrangement," as permissible in principle, as it was in this case allowable and beneficial in fact and practice.

As a final and full authority for our conclusions, the recent case (Central Yellow Pine Assn. v. S. & P. Rd., 10 Interstate Com. 213), in which the Interstate Commerce Commission applied the milling in transit rate to the manufacture of logs into lumber is cited. So much of what is there said by the tribunal, whose exclusive duty it is to consider these questions, is illustrative of the conditions in this investigation, that we quote rather freely from the opinion:

"It is well understood that at the present time this principle (milling in transit) is applied to the movement of many commodities. Under this, or some equivalent arrangement, grain of all kinds is milled and otherwise treated in transit; flour is blended, cotton is compressed, lumber is sawed and perhaps otherwise manufactured, live stock is stopped in transit, to test the market. It may be urged, with some force, that the Act to Regulate Commerce does not sanction arrangements of this kind, and the Commission early in its history intimated that such might finally be its conclusion (1 Interstate Com. 703). Such practices were, however, in use to a considerable extent at

the time of the passage of the Act, and since then have become universal. To abrogate these privileges would be to confiscate thousands and probably millions of dollars in value by rendering worthless plants which have been constructed in the faith of this construction. There can be no doubt that the application of this principle has cheapened the cost of transportation and probably manufacture."

"Can the principle be applied to the case before us? This Commission has often observed that no general rule can be laid down for the solution of these traffic problems. Whenever the question is one of fact each situation must be considered by itself. The conditions before us are somewhat peculiar. The practice which is alleged has grown up with the development of the timber industry and seems, on the whole, to have been beneficial to the country in which it exists. Its effect is to bring into market lands not otherwise valuable, to decrease the cost and stimulate the production of lumber, thereby benefiting the entire public. It amounts to a reduction on the freight rate, which we ought not to forbid without substantial reasons. Values have adjusted themselves to the situation, lands have been purchased, mills located, large amounts of money invested on the theory that the system would be continued. While the mill owner has no vested right of this sort which he can assert, there is a moral right resting upon the railroad company to continue the practice if it can do so legally. So far as can be seen the mill owner, the railway and the purchaser are all benefited. It seems plain to us that we ought not to interfere unless the positive mandate of the law requires it, and with considerable hesitation we consider that it does not." (Interstate Com. Rep., Vol. 10, p. 213-216.)

There seems to be left no doubt of the principle supporting such cases. And, "Once admitting the legality of the principle of milling in transit," says the Commission (Ibid, p. 216), "whether it shall be extended to a particular case depends largely upon the facts."

The facts of this investigation leave also no possible doubt that the special rate made for manufacturers in the Gas Belt comes within the milling in transit principle, and is so sustained by the Commission.

In the application of these principles of law and established customs of traffic to industrial conditions in Indiana the Railroad Commission will cordially unite with the shippers and carriers to provide a cheap rate for fuel to all the factories of the State. We understand that the purpose of the Commission Act is to benefit commerce, manufacture and production, and not to injure them. We comprehend that in the rapid changes and development of industrial conditions it is necessary that such rates as are the subject of this inquiry should be made, indeed are continually being made, in this State and in all the States. The Legislature of Indiana so understood, and has clearly indicated that it did not intend to take from the carriers the function of making rates. Our Commission Act did not confer on the Railroad Commission, as did the laws of Texas, Georgia, Illinois and other States, the initiative power to make general rates on mileage or other basis. It did not even expressly give the Commission the right conferred on the Commission of Colorado by the laws of that State, to formally make or approve special or milling rates in order to develop the resources of the State. It did not repeal, expressly or by implication, Sub. 10, Section 5103, Revised Statutes of 1901, which commits to the railroad companies the power "to regulate the time and manner in which passengers and property shall be transported, and the tolls and compensation to be paid therefor," and so we must consider and hold.

The Commission has the power to supervise all rates, to condemn unreasonable rates and establish correct rates in their stead, on complaint made. It has the power to prevent undue preferences and all unjust discriminations and rebates, and in dismissing and closing this investigation, affirms that it will unhesitatingly exercise these important powers in any case that may properly invoke them.

Separate Opinion by McAdams, Commissioner.—Information having come to the Commission that the Pennsylvania Line, the Lake Erie & Western Railway Company and the Big Four Rail-

way Company are practicing discrimination in rates for hauling coal from mines in Indiana into that portion of the State commonly known as the "Gas Belt," the Commission appointed its secretary to make a preliminary investigation of such reports. His report being filed, the Commission, acting upon the same and information obtained from other sources, held two public hearings upon the subject, the first at Elwood and the last at the Capital. These hearings were attended by representatives of these roads, also by a large number of the consumers of the coal carried into such territory. From the evidence taken and statements made these facts appear to be established:

1. Prior to the discovery of natural gas the territory known as the "Gas Belt" was not engaged largely in manufacturing industries, but was almost exclusively interested in agricultural pursuits. After the discovery of gas, which is a very desirable and cheap fuel for use in manufacturing establishments, there sprang up in this territory many factories and industries which consumed gas for fuel. The result of this industrial expansion was the investment of millions of dollars in buildings and machinery; a rapid and extraordinary increase in the population; towns and cities came into existence at places where none existed before; former towns and villages took on new life and have developed into large centers of population and are now the homes of thousands of the industrial population of the State, brought thither by the hope and expectation of employment, which have been realized, and homes built and relations established which have brought about, and justly so, large municipal expenses and improvements for the accommodation of the increased population. This expansion and development has also made necessary the construction of many public utilities, such as water works, gas works, electric light plants, street and interurban railroads, for the comfort and convenience of the citizens of this territory. The demands of this industrial expansion have justified large investments in mercantile buildings and stocks, and, incident to the industrial development there has also come the many other business, social, educational and charitable undertakings, situations and relations that are incident to large and established centers of population and business activity. Millions of dollars are annu-

ally brought into this territory and distributed to its citizens for services rendered and finally into the channels of trade from which each person and his business finally receives his due proportion according to the laws of trade. The engine that moves and controls all this vast outlay of wealth and clothes and feeds these thousands of people, is the manufacturing industries located in this territory. The controlling element in the economy of the manufacturing industries is now the coal, which furnishes the power to keep them going. When the supply of gas ceased to be sufficient to supply these industries, these railroads established a rate on coal from the mines in southwestern Indiana into the "Gas Belt" of 85 cents for "domestic" purposes and 75 cents for "steaming" purposes. In addition to these two rates the railroads published a list of the manufacturing industries which produced an outgoing tonnage and placed the same in the hands of the coal miners and coal dealers, agreeing with them to rebate 15 cents per ton on all coal shipped in on the 75-cent rate to the persons so classified as manufacturers. In practice only the two rates as published are used in the billing and settlement for freight on coal at the point of destination. The mine operator presents his bill to the railroad for the rebate on all coal delivered to industries which have an outgoing tonnage. This results in three rates: 85 cents for "domestic" purposes; 75 cents for "steaming" purposes, which includes all uses other than "domestic" where there is no outgoing tonnage, and 60 cents for all industries which have an outgoing tonnage. In so far as there is any evidence on the subject it appears that the maximum charge of 85 cents per ton for hauling this coal is not an excessive charge, and that the minimum charge of 60 cents is not remunerative to the carrier. However, this investigation was not made with a view to determine either of those questions, as they only arise incidentally and were not made the basis of careful investigation. Each year several million tons of coal are carried into this field and consumed by the people and industries there located. About 75 per cent. of the same takes the 60-cent rate, about 15 per cent. the 75-cent rate, and about 10 per cent. the 85-cent rate. A freight rate, upon this approximation of the proportions of each kind of consumption; which would produce the same revenue to the rail-

roads would be about 64¾ cents per ton. The railroads claim that the discrimination in rates as practiced by them is not unlawful, and is justified on account of the outgoing freight produced by the factories. The operators of the industries claim that the rates in force are at the very limit of expense for fuel to enable them to compete with like industries located nearer to their coal supply. If the industries should cease to operate the dire results to follow need no enumeration. They are self-evident, and would amount to a calamity to a very large and important portion of the people of the State.

The Commission in this matter is without authority other than its power and duty to report the railroads to the Attorney-General for prosecution, should it determine that the discrimination practiced by the carriers is unlawful.

CONCLUSIONS.

A brief statement of a few legal propositions, as applied to this question, will aid in its solution.

No authority now exists in this Commission, neither can it be given authority by any valid law to compel railroads to carry freight at a rate which is not fairly remunerative for the service performed.

If the carrier voluntarily performs a service for less than a fair and reasonable compensation and renders the service to all alike, without discrimination as to persons or localities, such act of the carrier is not unlawful and no one can complain thereof, unless injured thereby.

If a carrier gives to one shipper, or class of shippers, a less rate, on account of the magnitude of the business of such shipper, or class of shippers, in excess of the business furnished by the smaller dealer, who is charged a higher rate for the same service, the carrier is guilty of unjust discrimination, because rates can not be classified as between different shippers on the basis of the tonnage which each class offers. The law not only authorizes but requires the railroads to classify the various kinds of freight and the different kinds of the same class of freight, and to fix freight rates on the classifications so made. In making classifica-

tions of freight the value and character of the freight and the manner in which it is handled, along with many other facts, may be and are taken into consideration. The law does not authorize or permit the classification of consignees for the purpose of fixing rates. The carrier may classify commodities but not consumers.

In the establishment and building up of communities and in the fixing of rates thereto, the carrier must not interfere with the natural advantages which accrue to patrons along its line, on account of their choice of location. Neither can the carrier deprive parties or localities on its line of the advantages which accrue to them on account of their location, by giving to some other party or locality not so favorably situated a difference in rates which will compensate for the loss of advantages in location. To permit or require the carrier to discriminate in rates so as to equalize the difference in value between locations and to correct and make good the business calculations of investors and proprietors would amount to an abolishment of that long recognized legal guarantee which protects vigilance and preserves to the thrifty and provident the results of their foresight and industry.

If a carrier is so disposed, it may perform service for a locality at a less price than it does to some other locality similarly situated as to length of haul and kind of service, if by so doing the carrier may preserve its business at such point, which would otherwise be lost, and by so doing, also, can maintain a community which was established under conditions at the time supposed to be permanent, and which have changed, from natural causes, necessitating the cheaper service. Such discrimination between localities would not be unjust or unlawful, provided the favors extended go no farther than are necessary to place the favored territory in the same competitive condition which existed prior to the change in conditions necessitating the favored service.

The law contemplates discrimination in rates, and experience has demonstrated that they are unavoidable. What the law prohibits and punishes is unjust discrimination. Before discrimination becomes unjust it must be shown to be hurtful. As between individuals, institutions or industries, it must be shown that the discrimination has operated to the advantage and increased profits of the favored party, and that the party not so favored has suffered

a corresponding disadvantage and loss of profits. As between localities, before discrimination can be held to be unjust, it must be shown that the favors so extended, if withheld or equalized with other competing localities in the State, would result in advantages and benefits to such other localities. That is, there can be no discrimination where there is no competition. So viewed, the ultimate question of discrimination is one of fact.

There is, *prima facie*, no justification in the law for a carrier to haul fuel to a manufacturing institution at a less rate than it hauls fuel to other persons and institutions in the same locality, and to prevent such an act of the carrier from amounting to unjust and unlawful discrimination there must exist some potent and dissimilar facts and circumstances which will justify the carrier in making such discrimination, and such dissimilar facts and circumstances as will justify such discrimination may arise out of the fact that it is necessary for the carrier to haul such fuel at a lesser rate than it charges other persons and institutions in the locality, to the end that the manufacturing establishments may be continued in operation and the business of the carrier preserved and the integrity and prosperity of the community maintained, all of which would otherwise be lost and destroyed.

A standard author, speaking of the construction of statutes such as are involved in this proceeding, lays down these principles:

"A construction which must necessarily occasion great public and private mischief must never be preferred to a construction which will occasion neither, or not in so great a degree, unless the terms of the instrument absolutely require such preference."

"Statutes will be construed in the most beneficial way which their language will permit, to prevent absurdity, hardship or injustice; to favor public convenience and to oppose all prejudice to public interests."

An application of the foregoing principles to the facts in this case furnishes such a solution of the question involved as will preserve the interests of the carriers, conserve the welfare of the communities affected, and retain intact a very large and valuable portion of the industrial interests of the State, all of which

can be done without doing violence to the law, the principles of economy or the interests of other portions of the State.

The acts of the carriers in charging more for hauling coal for domestic consumption than they charge for hauling coal for industrial purposes and for the use of public utilities find ample justification in the difference in the classification of the commodities hauled, in the kind of service performed and the continuity of the business conditions involved in the service. Domestic coal is of an entirely different quality from the coal used for other purposes. It is much more valuable, is handled in quantities for only a small portion of the year, is generally put on sidings where the conveniences and facilities for handling are inferior as compared with the other service. The cars are usually not so soon returned to service. The domestic coal, in quantities, is hauled in the winter season, when cars are in great demand, motive power taxed to the limit, and cost of all transportation service greatly increased, while the other service is in a measure constant throughout the year. This distinction is established by the almost universal practice of coal carrying roads to alternate between a winter and a summer schedule of rates for the service.

Classification of freight is required by the law creating this Commission, and the law is justified by the experience of carriers and shippers. The reason of the law is apparent in this instance, and furnishes ample justification for the alleged but ill-founded discrimination.

Par. A., Sec. 3, Acts 1905, p. 86;

Par. B, Sec. 11, Acts 1905, p. 95;

L. E. & St. L. v. Crown Coal Co., 43 Ill. App. 228;

Commonwealth v. L. & N. Ry. Co., 68 S. W. 1103;

Savitz v. O. & M. Ry. Co. (Ill.), 37 N. E. 235.

So far as now shown in the evidence before the Commission, there is no such difference in the character and value of the coal used for industrial purposes and for the public utilities, as will justify a classification of the same, whereby a difference in freight of 15 cents per ton would be justified by the difference in classification. Therefore, we must determine, upon the facts, if such difference in rates, as imposed upon the different consumers of this

coal, amounts to unlawful and unjust discrimination under the statute. This prohibition against unjust and unlawful discrimination is found in the first two paragraphs of Section 14, Acts of 1905, page 96, and reads as follows:

"If any railroad, subject hereto, directly or indirectly, or by any special rate, rebate, drawback or other device, shall charge, demand, collect or receive from any person, firm or corporation a greater or less compensation for any service rendered or to be rendered by it than it charges, demands, collects or receives from any other person, firm or corporation for doing a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such railroad shall be deemed guilty of unjust discrimination, which is hereby prohibited.

"It shall also be an unjust discrimination for any railroad company to make or give any undue or unreasonable preference or advantage to any particular person, firm, corporation or locality, in connection with the transportation of any shipment or shipments, or to subject any particular kind of traffic to any undue or unreasonable prejudice, delay or disadvantage in any respect whatsoever."

It is claimed that under these provisions of the statute, the discrimination can be justified upon dissimilar facts and circumstances, which bring the case within the transportation rule, known as "milling in transit." The theory and practice of this rule among carriers is to charge one through rate upon the product, fixing the initiating point where the raw material is taken up, and the destination where the finished product is put upon the market, instead of making one rate for the raw material to the factory and another and different rate upon the finished product from the factory to the market. Under this rule and practice logs are made into lumber, lumber into furniture, wheat into flour, corn into meal, pig iron into steel, sand into glass, cotton compressed and other articles reduced from a crude state into finished products and forwarded to points of distribution or sale. The controlling idea in this rule or practice is the preservation of the original tonnage.

Its identity is preserved, although its character is changed and its bulk and weight generally lessened. The simple statement of the proposition forbids its application to this controversy. Coal used for fuel is destroyed. The valuable portion, its energy, escapes into the elements. The residue is ashes.

We have been unable to find any case or any argument which predicates a discriminating fuel rate for industrial purposes, upon the doctrine of "milling in transit," and when such a doctrine appears, if it ever shall, there will be announced a principle which will justify all imaginable and intolerable discriminations with reference to industrial enterprises and transportation. For instance, if such be the law, the manufacturer may well insist that the machinery for his mill, the oil and waste to keep it in operation, the laborers to man and operate it, shall all be carried at a reduced price because they are used and engaged in manufacturing enterprises. With the same propriety and as much reason the merchant may claim that his provisions and clothing are furnished exclusively for mill employes, and are necessary to keep and support them, so that they may furnish the energy to keep the mill going, and, therefore, he is entitled to a favored rate.

These cases approach as nearly to the doctrine of "milling in transit" as the hauling of coal for fuel, but every one will agree that such conditions would not be sufferable.

Justification for this discrimination is also claimed by the beneficiaries and the carriers, upon the theory that it is permissible for the carriers to haul fuel to the factories at the lesser rate because they are engaged in industrial enterprises and furnish an outgoing freight for the carriers to haul, while the consumers of coal for public utilities have no such outbound tonnage, and that it is permissible to so favor industrial enterprises upon the basis of the business in which they are engaged, as distinguished from all other patrons and shippers requiring a like service.

In so far as this contention is based upon excessive tonnage or additional business it is condemned by the courts of our own State and it is therefore unimportant what view other courts may take upon that question, as this Commission is bound by the action of the courts of last resort of our own State, which have held that the fact that one shipper has more freight than another, and can there-

fore furnish more business to the carrier, is no justification for giving the larger dealer a favored rate; that the person with one carload is entitled to have it carried for the same price as his more opulent neighbor, who has ten loads, provided the carriage is performed under the same circumstances and conditions.

L. E. & St. L. v. Wilson, 132 Ind. 517.

While the Court of Pennsylvania in *Hoover v. Penna. Co.*, 156 Penn. St. 220; the Court of Kentucky, in *L. & N. v. Commonwealth*, 57 S. W. 508, and *Commonwealth v. L. & N.*, 68 S. W. 1,103; the Court of Alabama in *L. & N. vs. Fulgham*, 8 So. 803, have held that it is lawful to classify consumers of coal and to give those engaged in manufacturing, who have an outgoing tonnage, a lesser rate than given to others, we are not inclined to follow such cases for many reasons. These cases are predicated upon statutes peculiar to the several States, and in one instance the statute specially authorizes the discrimination, while in others the doctrine is founded upon a contract or statute somewhat different from ours. However, if the statutes were the same we should not agree to this interpretation.

It will be very unfortunate for the people of this State when the railroads have been given the authority to discriminate between consumers, on no other basis than that of the consumers' business, and prospect for cheaper service on the basis of increased business. The principle is wrong. It has no element of justice or equality. It is not a square deal. The manufacturers are not a favored class in the eyes of the law. They are a very important and valuable part of the combined interests of the State, but, by no means, are they the most important or the most necessary. Such a doctrine could only stand on necessity, and when measured by that rule, the manufacturers would not be the recipient. Such preference can have no place in our business relations unless there be some special reason therefor, peculiar to the industry or locality. Factories and industrial enterprises are generally conducted by persons of wealth or through large combinations of capital, and are put on foot for the profits that usually and generally accrue therefrom, and not for any charitable or public purpose. They usually receive, in the community, such voluntary aid as justice

and the occasion require, without requiring, as a matter of law, that they have their services performed by the railroads at a cheaper price than the rest of the community pays for like services. It would be equally just and founded on the same reason, for a farmer to ask for his machinery and fertilizers to be carried at a cheaper rate than is given to others because his business is necessary and he will have a large crop for out-shipment. The railroads would not accede to that for a moment, yet we apprehend the whole people of the State could dispense with the manufacturer sooner and longer than they could with the grocer or the farmer. The industrial community is entitled to just the same consideration as the agricultural, mining and other interests of the State and no more, until the legislature, in its wisdom, shall decree otherwise in plain terms, and by unmistakable regulations.

The checks and balances of trade and the equalization of its advantages, and the fine adjustments which enter into and control our domestic and business economy, can not be finely and exactly adjusted and regulated by law or by this Commission, but when the law provides and this Commission enforces an equal chance and fair treatment, under like circumstances and conditions, we will have accomplished all that the legislature has so far required and as much as the whole people expect.

We are mindful of the fact that the Supreme Court of the United States, and the Interstate Commerce Commission, in construing the federal statute, from which ours is taken, have held that the "substantially similar circumstances and conditions" mentioned therein, refer only to the facts and circumstances of the carriage.

Union Pacific v. Goodridge, 149 U. S. 681;

Wright v. U. S., 167 U. S. 512;

I. C. C. v. Alabama, etc., 167 U. S. 144;

Cap. City Gas Co. v. Central Vermont, 11 I. C. C.

104.

While these decisions are correct as applied to the cases before the court and the Commission, we observe that they do not cover the question here involved, and that all that can and may be said concerning a statute and its proper application to a given state of

facts, can not and will not be said, until the last case has been determined. Unless this statute has, by express terms, defined all the limitations and rights of the carrier to the exclusion of all the former rights existing at common law, then it must be held that there still exists those common law rights of discrimination and rate adjustment to meet the changing conditions, which may become necessary for the proper adjustment of the carrier's business to the needs of the community which it serves. There are certain rights which the carriers and this community have which are superior to any law which the legislature may enact. The railroads are common carriers, chartered by the State, and acting upon the authority given them, have gone into this territory and become established in business, expending hundreds of thousands of dollars in tracks, lands, stations, equipment, yards and terminal facilities, to be able to manage this business and perform their duties as carriers. These obligations, which they have assumed, can not be abandoned. The courts would compel them to continue in business. The people of these communities have a right to demand that their vast interests shall not be sacrificed and destroyed or materially injured by the enforcement of a law which would produce that result. Any law or regulation of this Commission which would compel the carrier to sacrifice its property or perform services as a carrier without just compensation, or deny to the carrier the right to make such rates as would preserve its business and property, or which would deny to the communities the right to use their vast industrial arrangements for their own profit and the good of the community, will not stand the test of those constitutional requirements which forbid the taking of property without just compensation and guarantees to all the equal protection of the law.

Until the court of last resort shall determine that this statute excludes all facts and circumstances not connected with the carriage, we are inclined to hold that any set of facts, circumstances or conditions which may be shown to exist, making the discrimination necessary, not only to the carrier but to the consumer and the community at large, will justify the discrimination, provided that harm comes to no one from its practice. The law of self-defense justifies extraordinary conduct looking to the preservation

of human life. Can it not be said, with like propriety, that the ordinary rules of commercial intercourse and the laws of trade as usually applied, shall be held to be so elastic and so well adapted to the conduct of fiscal affairs, that their observance will justify the preservation and usefulness of millions of dollars invested in industrial enterprises and in the maintenance of prosperous and desirable communities, which would otherwise be destroyed and rendered hopeless?

What the railroads are doing in this matter, as the case now appears, is voluntary. The service is being performed for less than cost, for the sake of maintaining the industries and communities and keeping a business already established, and thereby making useful large investments of its capital, which would otherwise be lost or greatly depreciated. This rate, if non-remunerative, could not be enforced by the Commission, but that is no reason why the carrier could not be allowed to practice it if not unlawful or harmful. We do not think that an industrial undertaking is entitled to any preference as such. If located and established, and now going, under conditions and surroundings, which originally impelled the undertaking, then it can only claim the same rates as are the due of all others for a like service. We do not believe that a carrier in the location of its line and the building up of its business relations and situations and communities along its line can do anything or fix any rate which will add to or detract from the natural advantages that came from choice in location, based upon facts and circumstances within the probable knowledge of its patrons. When such are the facts the parties must all be treated equally and the localities served without discrimination and the inexorable laws of trade and competition will adjust all the other differences much more accurately and justly than if the carrier undertakes the task of equalization through discrimination in rates.

While the foregoing principles will ordinarily determine controversies such as this, the facts here involved remove the case from the class of controversies to be ruled by ordinary conditions and considerations. The industry here is not now being established. It has long existed. The discrimination is not being practiced to increase the carrier's business in excess of what it was before the change in rates. On the contrary, it is being practiced to main-

tain the *status quo*; to keep the business already established; make useful its investments already made and make useful the property of its patrons already constructed. The situation in this territory was not and could not be foreseen at the time these large investments by owners and carriers were made. The undertaking was commenced and carried out, and the vast interests have become settled upon a basis which no longer exists, namely: gas for fuel. Is it possible that this law against discrimination in rates and localities can be so enforced as to deprive these carriers of the privilege of, to some extent at least, voluntarily supplying this loss of cheap fuel with coal at a lesser rate than expense of carriage justifies? Or, on the other hand, shall the carrier be compelled to remain in that locality and serve the public at a loss and see its and the communities' investments go to decay, and the people to depart, and this large and prosperous portion of the State lapse into its former state, undisturbed by the hum of industry, a striking evidence of an unwise law? The rules of statutory construction, heretofore cited, forbid these conclusions. Such was not the purpose of the legislature. The purpose of the law was to correct abuses and prevent mischief, not to destroy property, disrupt communities and disgrace the State. What the carrier is doing in this case is making good to these factories and industries the loss of prestige and earning power which befell this territory when gas ceased to flow. This was a condition not contemplated in the construction period, either by the carrier or factory owner. It must be met or the whole fabric goes down. No one can correct the condition except the carrier. Shall it be allowed? We think it should, and solely on the ground of necessity and self-preservation of the interests of the carrier and the communities served, and we bottom our conclusions squarely on that ground and no other. While we believe that this discrimination is justifiable under the unfortunate situation that confronts this territory, we also believe that it can be extended only so far as will put these industries in a competitive condition with other like industries, more favorably located for fuel supply, and if it extends beyond that point of helpfulness, then it at once becomes unlawful and unjust. Upon the bare statement this seems to be unjust to the consumers of coal used for public utilities, but upon closer views,

proceeding upon the theory that the lower rate is necessary to operate the industries, the seeming injustice does not appear. Presumably the utilities are only valuable on account of their use by the patrons and consumers. None of them were located in this territory when gas was first introduced. They have come with the on-rush of wealth, business and expansion, incident to the development which is now embraced in this territory. If this development stops, if the industries decay or remain idle, the people cease to be prosperous and go away seeking labor in other fields. The necessity for the utilities will be gone, the patrons will no longer be demanding service, the ability of those who remain to enjoy the luxuries which they furnish will be destroyed. The ability of the consumer of fuel for these utilities to pay a reasonable carriage for their fuel depends on their ability and opportunities to do business with the people. Is it unjust to these consumers to give to the factories the lesser rate and thereby enable them to continue in business and pay wages to the patrons of the utilities which will enable them to use and enjoy these advantages so that all may continue in business? Or is it just to require the rate to be made uniform and close out not only the factories but deprive the people of their capacity to use and enjoy the utilities, thereby wrecking the whole fabric and destroying the community? In our judgment the carriers would more nearly violate the law against discrimination between communities if they did not undertake to make good, so far as it lies in their power so to do, the lamentable condition which has overtaken this portion of the State, and which so seriously threatens its prosperity and welfare.

In the administration of the rates which the carriers are enforcing in this territory we think they should be classified and open to the public and administered in the first instance, at the rates indicated, without any rebate or draw-back, as now practiced, so that all will know the conditions and the reasons therefor. We also think that they should be administered with impartiality to the end that any person, engaged in industrial undertaking, or furnishing power made from the use of coal, shall have the benefit of these rates. If the traction companies or light companies furnish power to be used in manufacturing industries they would be entitled to the same concessions as others to the extent that they consume coal for such purposes.

In so far as the views expressed in this opinion differ from the views of Wood, Commissioner, filed in this proceeding, I dissent from his views, but concur in the result.

C. V. McADAMS, Commissioner.

October 19, 1905.

HAY RATES.

No. 6.—*Jas. R. Riggs et al. v. E. & T. H. Railroad, E. & I. Railroad.*

Informal complaint by some seventy-five hay raisers and hay dealers, concerning rates on baled hay, Terre Haute and way stations to Evansville. Local rates, 8 cents; through rates, 6½ cents. A rate of 5 cents asked. Hearing at court house, Terre Haute, August 15, 1905. Carriers represented by G. F. A. and counsel. After the hearing and much correspondence, the through rates were reduced to 6 cents south of Vincennes on E. & T. H., and south of Washington on E. & I. At all points further north, the 6½-cent rate was continued. These rates to apply on traffic destined south of the Ohio.

The local tariffs to Evansville were changed to 6½ cents; St. George to Gudgel; 7 cents, Oakland City to Washington; 8 cents, from Wilson to Stave Track. From Youngs to Smith, 8 cents; Vincennes to Patoka, 7 cents; Princeton to Erskine, 6½ cents, and from McGary to Erwin, 7 cents. The petitioners declining to file verified petition, cause rested on these changes. In this proceeding a witness refused to comply with the Commissioner's subpoena. He was prosecuted by the Commission in the Vigo Circuit Court. Entered a plea of guilty and was fined.

EXCESS BAGGAGE RATES.

No. 7.—*Directors of T. P. A. v. All Railroads.*

The Travelers' Protective Association, by its officers and various individuals, on their personal account, complained that the carriers refused to comply with the excess baggage law approved March 9, 1903, Acts 1903, p. 225. Many specific cases were examined, and it developed that charges were generally made in ex-

cess of the rates fixed by this statute. General conferences were held by the baggage representatives of the carriers, the officers of the T. P. A., and the Commission. During these conferences representatives of the T. P. A. and Business Men proposed to submit the entire matter to the Railroad Commission as a Board of Arbitration. The railroad representatives declined this proposition and so nothing was accomplished. Almost all excess baggage consists of commercial samples. With a view to enforce compliance with the law and test its application and validity, the Commission filed a bill in the Superior Court of Marion County against the Big Four System, seeking to enjoin the excess charges. The bill was so framed as to present the question of charges upon commercial samples as excess baggage. The court decided against the Commission, and held that commercial samples are not baggage, and that the carriers do not have to carry the same on the terms prescribed by this statute. The Commission is of the opinion that there should be additional legislation to compel the carriage of commercial samples as baggage as recommended in this report.

It is fair to say that the Wabash, E. & T. H. and E. & I. Railways comply with this law.

RAILROADS CROSSING.

No. 8.—*Vandalia Railroad, E. & T. H. Railroad, B. & O. S. W. Railroad.*

In August, 1905, information came to the Commission that at the City of Vincennes, where the tracks of the Vandalia and E. & T. H. Railways cross the track of the B. & O. S. W. Railway, there was no interlocking device or other protection for the crossing. The subject was investigated by the Commission and information verified. At the request of the Commission the companies employed two regular crossing watchmen, one for day service and one for night service. Prior to this investigation the only protection was a gate to be turned by the train crews on the several roads, as they approached the crossing.

DANGEROUS HIGHWAY CROSSING.

No. 9.—*Board of Commissioners of Hamilton County v. Central Indiana Railroad.*

This was a proceeding instituted by the Board of Commissioners of Hamilton County against the Central Indiana, complaining of the dangerous character of a grade highway crossing in that county, near Noblesville. The complaint was investigated, evidence taken and site examined and survey made. The Commission found the crossing to be a dangerous one, and that the company had not complied with the law requiring it to restore highway crossings, and recommended the construction of an overhead highway bridge as the only safe and practical way of restoring the highway. A verified copy of this report of the Commission was filed with the company, also with the Governor. The company refused to comply with the report of the Commission or to do anything to improve the crossing. The township trustee of the township where the road lies was notified of the action of the Commission, and requested to proceed in the premises, but he has not. Under the present state of the law, the Commission, in matters of this kind, can only advise. The law should be amended, giving the Commission authority to go into court and enforce compliance with its findings.

RAILROADS CROSSING.

No. 10.—*P., C., C. & St. L. Ry., C., H. & D. Ry.*

On August 15, 1905, a very serious collision occurred at the city of Rushville at the crossing of these two roads in that city. The collision occurred at the depot of one of the lines, and resulted in the destruction of a large portion of the same, and endangered the lives of many employes and patrons of the roads. No protection of any kind is provided for this crossing, which is a very dangerous one on account of the location of the tracks and condition of the surrounding premises.

The Commission made a verified report, and recommended the establishment of semaphore gates at the crossing, to be at all times in charge of a competent watchman. A copy of this report and

recommendation was sent to each of the roads, and a copy filed with the Governor. The roads have complied with the Commission's recommendations.

COAL RATES.

No. 11.—*Ayrshire Coal Co. v. E. & T. H. R. R.*

Complainant having mines on Southern Railway made verbal complaint to the Commission concerning rates on their coal to points on the E. & T. H., reached via Princeton. Pending investigation the E. & T. H. Co., having been advised of the complaint, published rates satisfactory to the complainant, and the complaint was withdrawn.

COAL RATES.

No. 12.—*Application of Southern Railway for Approval of Rates.*

Southern Railway asked the approval of rates on coal from mines on line in Indiana to Evansville, namely, for manufacturing and steaming purposes, 30 cents. For domestic consumption, 40 cents. Petitioner advised that it had authority to so classify coal without consulting the Commission. Such rates were accordingly put in at Evansville, including the remarkably low rate of 30 cents a ton for manufacturers' coal, hauled from Ayrshire to Evansville, via Huntingburg, a distance of sixty-four miles.

CAR SERVICE.

No. 13.—*Poultry Shippers v. E. & T. H. R. R.*

Complaint by poultry shippers that the company had abandoned its pick-up refrigerator poultry car serving way stations, which required all shipments to be carried to Ft. Branch or Princeton. Complaint presented by the Commission to the general manager, who issued orders for the service to be restored, by starting a pick-up iced car from Patoka to serve the way stations complaining. The new service so established being satisfactory, the complaint was dismissed.

INTERCHANGE SWITCHING.

No. 14.—*Martin, Martin & Co. v. Big Four Ry., P., C., C. & St. L. Ry., L. E. & W. Ry.*

Complaint that the Big Four refused to interchange switching with other companies at New Castle. The Commission visited New Castle and examined into the situation, and requested the companies to modify their regulations and interchange all business. The companies complied with the request of the Commission.

Incident to this adjustment, and as a part of the same, a partial embargo on interchange of business between the Pan Handle and Big Four Companies at Anderson and Marion was removed.

DISCRIMINATION.

No. 15.—*Corydon Hub Factory v. L., N. A. & C. Ry.*

The complainant claimed that the company unjustly discriminated against it by charging it for switching service rendered to its factory, while it made no charge against other industries. The Commission investigated the situation by a personal visit of one of its members, and it appeared that the complainant's factory was located beyond the limits of the company's yards, and upon a track specially maintained for its individual service, and that these circumstances did not attach to the service rendered to other industries, where no switching charge was made. On account of this dissimilar condition, the Commission found that there was no unjust discrimination.

COAL RATES.

No. 16.—*Hobart M. Cable Co. v. Vandalia Railroad.*

Complaint of 90-cent coal rate from Indiana mines to Laporte, as compared with the 70-cent rate to Chicago, the greater distance. Complaint presented to the company, which, on account of the position assumed by its connections which deliver the traffic, refused any relief, claiming the service to be reasonable and the situation such as to not be compared with the Chicago rate. Complainant refused to make formal complaint and the cause was dismissed.

CAR SERVICE.

No. 17.—*T. M. Kehoe & Co. v. E. & T. H.; E. & I. R. R.*

This complaint concerned alleged discrimination in furnishing cars. Also shortage in cars furnished to move the hay crop on these lines awaiting shipment. This inquiry being an important one, the Commission delegated its secretary to make a personal investigation. His report was promptly filed, and from it and other information acquired, the following among many other facts, appeared:

At the time of the investigation, December, 1905, there were over 10,000 tons of hay along these lines which would have to be moved so soon as the equipment could be furnished. Although these lines own 5,274 cars of all kinds, there were less than 700 cars, domestic and foreign, on their lines at the time, the others being in the possession of other roads and loaded at other terminals and passing over their lines without stop. Of the equipment so owned, 684 cars were suitable for loading hay. Almost all the hay shipments on these lines are destined to points south of the Ohio, and could be loaded only in cars which are allowed to move in that direction, and in this connection the Commission desires to suggest the propriety of so changing the existing car service rules as to remove this objectionable regulation which so hampers traffic, and results in so much empty car movement. The Commission, after this investigation, was impressed with the fact that the carriers were as anxious to move the traffic as the shippers were to see it go forward, but were unable to furnish greater facilities on account of the operation of the car service rules, which had scattered its equipment, as above indicated.

The following tabulation shows the efforts of the carriers to accommodate its business, as compared with the preceding year:

EVANSVILLE AND TERRE HAUTE RAILROAD COMPANY.

Statement of hay billed from various E. & T. H. stations during the months of September, October and November, 1905, as compared with the same months of 1904.

Station.	September.				October.				November.				Total.			
	1904.		1905.		1904.		1905.		1904.		1905.		1904.		1905.	
	Cars.	Tons.	Cars.	Tons.	Cars.	Tons.	Cars.	Tons.	Cars.	Tons.	Cars.	Tons.	Cars.	Tons.	Cars.	Tons.
Haubstadt.....	.....	.....	2	23	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	2	23
McGary.....	.....	.....	4	40	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	4	40
Owensville.....	.....	.....	17	176	.....	.....	11	124	.....	.....	3	41	.....	.....	31	341
Mounts.....	.....	.....	3	48	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	3	48
Cynthiana.....	.....	.....	4	40	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	4	40
Poseyville.....	.....	.....	17	187	.....	.....	3	30	.....	.....	.....	.....	.....	.....	20	217
Wilson.....	.....	.....	3	30	.....	.....	4	43	.....	.....	.....	.....	.....	.....	7	73
Oliver.....	.....	.....	16	166	.....	.....	5	52	.....	.....	.....	.....	.....	.....	21	218
Solitude.....	.....	.....	16	160	.....	.....	8	81	.....	.....	.....	.....	.....	.....	24	241
Mt. Vernon.....	.....	.....	9	111	.....	.....	1	11	.....	.....	.....	.....	.....	.....	10	122
Bozemen.....	.....	.....	3	30	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	3	30
Hazleton.....	.....	.....	10	111	.....	.....	.....	.....	1	16	.....	.....	1	16	10	111
Vincennes.....	1	11	.....	.....	2	23	.....	.....	.....	1	10	.....	3	34	1	10
Oaktown.....	.....	.....	6	73	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	6	73
Paxton.....	9	90	6	65	6	70	6	67	.....	.....	1	10	15	160	13	142
Sullivan.....	9	99	22	246	1	10	13	149	9	96	22	236	19	205	57	631
Shelburn.....	14	161	8	92	9	98	8	27	.....	.....	9	103	23	269	25	282
Miller.....	.....	.....	.....	2	20	.....	.....	.....	.....	.....	.....	.....	.....	.....	2	20
Star City.....	6	64	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	6	64	.....	.....
Farmersburg.....	.....	.....	4	43	.....	.....	13	149	2	20	22	232	2	20	39	424
Pimento.....	.....	.....	3	32	2	21	9	97	3	31	19	198	5	52	31	327
Young.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1	10	.....	.....	1	10
Terre Haute.....	18	182	.....	.....	9	97	1	10	3	32	.....	.....	30	311	1	10
Total.....	57	607	153	1675	49	319	82	840	18	195	78	840	104	1131	315	3433

EVANSVILLE AND INDIANAPOLIS RAILROAD COMPANY.

Evansville.....	.....	.....	.....	.....	.....	.....	.....	.....	1	10	.....	.....	1	10	.....	.....
Elberfeld.....	1	10	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1	10	.....	.....
Buckskin.....	2	22	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	2	22	.....	.....
Mackey.....	2	20	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	2	20	.....	.....
Oakland City.....	1	8	.....	.....	1	12	.....	.....	.....	1	10	.....	2	20	1	10
Hosmer.....	.....	.....	1	10	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1	10
Petersburg.....	.....	.....	4	27	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	4	27
Jordan.....	1	10	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1	10	.....	.....
Albright.....	.....	.....	1	12	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1	12
Plainville.....	.....	.....	11	68	.....	.....	.....	.....	.....	1	10	.....	.....	.....	12	78
Elnora.....	3	31	13	140	3	37	11	122	.....	24	254	6	68	48	516	.....
Welsh.....	.....	.....	8	85	.....	.....	.....	7	73	.....	3	32	.....	.....	18	190
Worthington.....	.....	.....	7	71	.....	.....	10	105	.....	14	149	.....	.....	31	325	.....
Hubbell.....	.....	.....	.....	.....	.....	.....	2	24	.....	.....	.....	.....	.....	.....	2	24
Coal City.....	17	179	7	75	.....	.....	6	67	.....	.....	1	10	17	179	14	152
Clay City.....	24	235	17	192	3	35	6	64	6	66	13	143	33	336	36	399
Saline City.....	.....	.....	12	136	30	307	7	72	5	54	2	25	35	361	21	233
Ashboro.....	1	10	5	54	2	21	6	66	8	84	2	24	11	115	13	144
Prairie City.....	.....	.....	.....	.....	6	62	3	32	4	44	.....	.....	10	106	3	32
Brazil.....	.....	.....	6	67	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	6	67
Cory.....	10	121	9	99	5	63	.....	.....	8	97	15	72	23	281	24	171
Riley.....	3	31	2	20	7	80	12	140	3	33	.....	.....	13	144	14	160
Total.....	65	677	103	1066	57	617	70	765	34	378	77	739	156	1672	250	2560

The conclusions of the Commission in this matter are fully set forth in the following letter sent to the complainant and the carriers:

December 30, 1905.

T. M. Kehoe & Co., Terre Haute, Indiana:

Gentlemen—Upon receipt of your complaint against the E. & T. H. Railroad and the E. & I. Railroad, of date of December 5, 1905, concerning failure of said railroads to furnish you cars in which to make shipments of hay, the same was laid before the Commission and the Commission then appointed its secretary, Mr. C. B. Riley, and authorized and empowered him to make an investigation concerning this complaint.

Mr. Riley has devoted considerable time to a careful investigation of the matter and has now filed his report, which is very thorough and extensive, covering in detail the transactions along these lines concerning the transportation of hay, together with detailed information, requested of and furnished by the railway companies. His report and the information furnished by the carriers, has been considered by the Commission, and it has arrived at the conclusion that there has been no discrimination in the particulars alleged. On account of the excessive amount of business now tendered to the carriers, it is utterly impossible for them to meet all demands with the promptness desired, not only by the shipper but by the carrier. It has been our experience that it is of as much annoyance to the carrier to be unable to perform service as it is to the shipper not to receive the service. We realize that in the management and conduct of this business that it can not always be executed with that dispatch and exactness that a private individual is able to bring to the management and control of his private affairs of limited magnitude, but, after a careful investigation of this matter, we are of the opinion that the carriers are conscientiously and honestly endeavoring to serve all the people on their lines, concerning the transportation of hay, with impartiality, and that you have been treated as fairly as the other shippers along the line in like situations.

Before a case for discrimination, which is prohibited by law, can be made out it would be necessary to show that the carrier had purposely intended the injury which follows and that it did not come about on account of the manner in which the business was ordinarily transacted, without purpose or intention to discriminate or injure.

The Commission will always be willing to investigate complaints of this character although they involve expense and trouble to the Commission and to the carriers, but it is the right of the shipper to have his complaints investigated, and each party should be better satisfied after an investigation of this kind, to know that the service they are performing and receiving will bear investigation, and to know that they have been justly treated. It frequently happens that a shipper while looking at the matter from his standpoint alone, is not able to impartially determine whether or not his service is all that he is entitled to ask, when, if he had all the facts before him as they have been determined in this case, he would probably be satisfied with his condition and would not complain, and it is one of the duties of the Railroad Commission to make an impartial investigation of all the facts and lay them before the parties, with their judgment concerning the same, and that we have endeavored to do in this case, and hope that it will result in better feeling between you and the railroad companies concerning this matter.

CAR SERVICE.

No. 18.—*Fauvre Coal Co. v. Vandalia Railroad.*

Complaint of shortage and discrimination in car service at mines in the Mackville district. Complaint taken up with superintendent in person. On the day following the conference the shortage was relieved and subsequent service reported as satisfactory.

WOOL RATES.

No. 19.—*M. Herzog v. Big Four Railway.*

Complaint concerning rates on wool to Covington. Most of the rates were interstate. Complainant furnished with a copy of the rules and instructed how to proceed formally. No other report was received.

RAILROADS CROSSING.

No. 20.—*Southern Railway, E. & T. H. Railway, Evansville & Princeton Traction Co.*

This is an investigation as to the character of the crossing of the Southern and E. & T. H. Railroads north of Princeton, and the crossing of the Evansville & Princeton Traction Company over the tracks of the E. & T. H. Railroad at Princeton. Upon investigation the crossing of the steam roads did not appear to be dangerous, on account of the slight train movement. There is prospect for the traction line to be interlocked soon or the grade crossing eliminated. Each of these matters is held for further consideration.

CAR SERVICE.

No. 21.—*Roy Stevenson & Co. et al. v. Southern Railway Company.*

Complaint concerning shortage in cars at Rockport. Complaint taken up with officials in person and a visit made to Rockport. Great and serious shortage in cars was found to exist. An earnest appeal to the company resulted in the immediate correction of service, and all cause for complaint was removed. It devel-

oped in this inquiry that there were 800 cars of cotton at Brunswick, Ga., awaiting the arrival of cotton steamers. These cars were largely Southern, and the congestion existing there and at other points south was the principal cause of the shortage in equipment.

CAR SERVICE.

No. 22.—*S. Bash & Co. v. Railroads.*

Matters complained of in this proceeding were finally taken up in formal proceedings No. 42.

CAR SERVICE.

No. 23.—*Phares & DeWees v. T., St. L. & W. Ry.*

Complaint from West Middletown concerning the distribution of grain cars, claiming that competitive points are favored as against non-competitive points. The subject was investigated at Frankfort, but sufficient information was not obtainable at that point upon which to form a judgment. Interrogatories were propounded to the auditor, who, under the advice of the company's counsel, refused to answer. No formal complaint having been filed, the Commission was powerless to compel answers. This was the first company to refuse the Commission information concerning complaints in this line. The law should be amended in this regard.

CAR SERVICE.

No. 24.—*A. H. Perfect & Co. v. Railroads.*

The matter here involved concerning car service rules was taken up in formal proceeding No. 42.

CAR SERVICE.

No. 25.—*W. J. Hare v. Pan Handle.*

Complaint concerning shortage of cars to ship lumber from Grayford. Cars ordered November 26, 1905, and not received up to December 22, 1905. Subject taken up with representative of the company at Louisville, Ky., and cars were furnished at once.

CAR SERVICE.

No. 26.—*Goodrich Bros. Hay & Grain Co. v. G. R. & I. Railroad.*

Complaint of shortage in cars for grain shipments at Ridgeville. Complaint presented to the general freight agent at Grand Rapids, and in two days all cars were furnished as needed.

LUMBER RATES.

No. 27.—*S. P. Coppock & Co. v. Monon Railroad.*

Complaint for charging more for short than for long haul on lumber from Indiana points to Michigan points. The company refused any information, it being an interstate shipment. There being no formal complaint on file, the Commission was without authority to compel response. Complainant so notified.

CAR SERVICE.

No. 28.—*S. Bash & Co. v. Railroads.*

The matter here complained of was considered in formal proceeding No. 42.

CAR SERVICE.

No. 29.—*J. W. Owens v. Pan Handle.*

Complaint concerning car shortage for grain shipments to Saratoga, January, 1906, and May, 1906. Complaint presented to the superintendent, and equipment supplied to the satisfaction of the complainant.

BILL OF LADING.

No. 30.—*A. P. Watkins v. Pan Handle.*

Complainant, grain dealer at Lincoln, complained that that company indorsed all bills of lading for corn to Baltimore "subject to delay." Superintendent requested to withdraw this order, which he did, claiming that it was issued on account of congestion at eastern terminal markets at the time of issue.

COAL RATES.

No. 31.—*J. F. O'Brien v. Monon Railroad.*

September 19, 1905, informal complaint filed, charging that this company violates the long and short haul clause of the act, by charging 90 cents per ton on coal from Victoria to Cloverdale, while it hauls the same coal from the same mines to Greencastle for 60 cents, being 12 miles further in the same direction. A member of the Commission visited Greencastle and Cloverdale and examined the records in the local freight offices. The information sustained the complaint. The company was notified and requested to desist but neglected and failed to answer the communications from the Commission. Finally formal complaint was filed and the cause heard. See regular docket No. 36. As a result of this investigation and hearing the facts were reported to the Attorney-General for his consideration and action. See this docket No. 68.

PASSENGER RATES.

No. 32.—*J. W. Kitterman et al. v. Big Four Railroad Co.*

December 19, 1905. In this case complaint was made that the passenger rates from Kennard and Shirley to Indianapolis were higher than from New Castle, a point beyond, to Indianapolis. The matter was taken up informally by the Commission and investigated by a member of the Commission. In the negotiations had with the railroad company, it was claimed by the Railroad Commission that these rates were in violation of the long and short haul clause of the act creating the Railroad Commission of Indiana. After consideration by the legal department of the Big Four, that company agreed to put in rates from Willow Branch, Wilkinson, Shirley and Kennard, not higher than the rates from New Castle. The result sought by the Commission having been accomplished no further proceedings were had.

CAR SHORTAGE FOR GRAIN SHIPMENTS.

No. 33.—*M. F. Starz & Co. et al. v. C. & E. I.; Big Four; L. E. & W. R. R.*

December 20, 1905. In this case several complaints were filed by shippers of grain that they were unable to secure cars for shipments. These complaints were referred to a member of the Commission, who personally visited Fowler, Barce, Swanington, Atkinson, Templeton, Oxford, Pine Village, Winthrop and Attica and inquired carefully into the matter of distribution of cars to the elevators at all these points. Correspondence by letter and wire with the railroad companies serving this territory resulted in getting cars for the shippers who made complaint.

The report made to the Commission contained the following tabulation showing operators, location and capacity and statement of cars furnished from November 1st to date of investigation:

BIG FOUR RAILROAD—CHICAGO DIVISION.

DEALER.	PLACE.	Capacity, Bushels.	Cars Nov. 1 to Dec. 28.	Remarks.
Hawkins Elevator	Fowler	205,000	46	
Fowler Grain Co.	Fowler	105,000	26	
Swanington Grain Co.	Swanington ..	50,000	14	10 cars C. & E. I.
Bell & Greenwood	Atkinson	30,000	16	
Kennedy Bros.	Templeton	20,000	21	Connecting road will not switch.

CHICAGO & EASTERN ILLINOIS—BRAZIL DIVISION.

Wadena Grain Co.	Wadena	40,000	36	
F. G. Bernard	Lochiel	75,000	21	
Starz & Co.	Barce	60,000	7	
Swanington Grain Co.	Swanington ..	50,000	10	14 cars Big Four.
Hawkins Bros.	Oxford	25,000	3	30 cars L. E. & W.
McConnell & Kennedy	Pine Village ..	21,000	31	
Chatterton Grain Co.	Chatterton	15,000	20	
Winthrop Grain Co.	Winthrop	15,000	20	
Jones Bros.	Attica	50,000	6	Ship mostly on Wabash.
Martin & Co.	Attica	40,000	6	Ship mostly on Wabash.
J. T. Nixon	Attica	25,000	3	Ship mostly on Wabash.
J. T. Nixon	Rob Roy	40,000	22	Bill at Attica.

In said report the Commission was also advised that it was apparent that the C. & E. I. R. R. was discriminating against Starz & Co. at Barce, Indiana. A telegram was promptly sent by the Commission to the general freight agent of the railroad company at Chicago, calling attention to this discrimination. The

railroad company answered at once, promising full correction, and the Commission has since been informed that the service of cars at Barce was renewed and that from then to the present time Starz & Co. had been furnished with their full proportion of cars in the transaction of their business.

SEABOARD RATE.

No. 33 $\frac{1}{2}$.—*M. F. Starz & Co. v. C. & E. I. R. R.*

May 28, 1906. Complaint made by M. F. Starz & Co. that the rate from C. & E. I. points to the seaboard was one cent higher than from points on Big Four and other railroads in the same territory and matter taken up with the C. & E. I. and considerable correspondence with reference to same. Finally there was a letter from the general freight agent of the C. & E. I. declining to make any concessions. This being an interstate rate no other proceedings were taken by the Commission.

INTERCHANGE OF SWITCHING.

No. 34.—*Meade Grain Company v. Dayton & Union R. R. Co.*

December 22, 1905. Meade Grain Company, Union City, Indiana, complained that the Dayton & Union Railway Company, on which their elevator is located, declined to interchange business with the Pennsylvania lines. On investigation it appeared that the track connection between these two lines is through the Big Four Railroad. Extensive correspondence has been had in this matter, and also a personal visit by a member of the Commission to the locality affected. Under direction of Judson Harmon, receiver of the C. H. & D. Railroad, which company controls the Dayton and Union Railway Company, that company declined to interchange business, and complainant having filed no formal complaint the Commission has not been able in this case to proceed further.

FERTILIZER RATES.

No. 35.—*E. Rauh & Sons et al. v. Railroad Companies.*

In this matter informal complaint was made of the rates on fertilizers. An investigation of the subject of fertilizer rates was made and a comparison of rates in other states compiled. The

railroads and manufacturers of fertilizers were brought together at the Commission's rooms, and the whole subject considered. The only relief obtained was the establishment, by some of the roads, of the 6th class rate upon the C. F. A. mileage scale, which had theretofore been in group rates. Further relief was denied on account of the refusal of the Southern Road to join in proportional rates to points on its lines. Subsequently a formal complaint was filed and has been determined. See No. 41 regular docket.

INTERCHANGE OF SWITCH.

No. 36.—*Kennedy Brothers v. Big Four; L. E. & W. R. R. Cos.*

January 2, 1905. Kennedy Brothers complained that the Big Four and L. E. & W. Railroad Companies declined to interchange business at Templeton, Indiana. Matter taken up by the Commission, and after correspondence these railroad companies agreed to hereafter interchange business at said point in accordance with the request of the Commission. This action was taken January 20, 1906, and the case closed.

SWITCH EXTENSION.

No. 37.—*Martin & Martin Company v. P., C., C. & St. L. R. R. Co.*

January 2, 1906. Complaint was made by Martin & Martin Company, New Castle, Indiana, that said company refused to extend their siding so as to reach complainant's coal bins. Matter taken up by the Commission and railroad company promised to make extension as requested; however, nothing was done by the railroad company and complainant finally filed its formal complaint, which is now pending. See No. 43, Regular Docket.

SWITCHING AND COAL RATES.

No. 38.—*Inquiry at Ft. Wayne.*

January 5, 1906. Investigation by the Commission of switching, interchange of business and coal rates at Ft. Wayne, Indiana. In January, 1906, a session of the Commission was held at Ft. Wayne, all Commissioners being present and notice having been

given to the railroad companies doing business in that city. It developed that the chief cause of complaint was that a large number of industries were located on the private tracks of the N. Y., C. & St. L. Railroad, and that said railroad declined to switch cars from other railroads to the industries on these tracks. No formal complaint having been made, and that company claiming such tracks to be its terminal facilities, no action was taken, except that this investigation originated the inquiry into coal rates which finally resulted in the railroads reducing rates to Ft. Wayne and adjoining territory, at the request of the Commission, for particulars of which see A. R. No. 53.

COAL RATES.

No. 39.—*Attica Bridge Company et al. v. C. & E. I. Railroad Company.*

November 24, 1905. The Attica Bridge Company, and others, made complaint that coal rates from Mecca District, Brazil District, Linton District and Catlin, Illinois, to Attica were too high. Matter was taken up by a member of the Commission, who made a lengthy and laborious examination of coal rates in Indiana and a tabulation of the same, and also had personal interviews with the coal traffic manager of the C. & E. I. R. R., and correspondence with W. A. Sprott, district freight agent of the Wabash Railroad. This matter finally resulted in the following reductions, namely:

	<i>Old Rate.</i>	<i>New Rate.</i>
From Mecca to Attica.....	60	50
From Coal Bluff to Attica.....	60	50
From Brazil to Attica.....	70	60
From Catlin to Attica.....	60	50 (Domestic)
From Catlin to Attica.....	50	40 (Mine Run N. P. S.)
From Linton to Attica.....	80.5 via So. Ind. to C. & E. I. refused to modify.	
From Shelburn to Attica.....	New rate via E. & T. H. and C. & E. I. from Sullivan County fields, 70.	

GRAIN RATES.

No. 40.—*J. K. Hinkle & Co. v. Big Four Ry. Co.*

January 25, 1906. Complainants, who are grain dealers at Jamestown, on the Peoria Division of this railroad, made complaint under section 11, Par. C of the law, claiming that through

rates on grain from that point to the seaboard, both domestic and for export, were two cents per hundred pounds higher than the same company charged on its Chicago Division at all stations north of Indianapolis to Chicago. Complainants charged that the territory from which they purchased grain was common to elevators, located on the Chicago Division, thereby compelling them to pay the same price for grain and consequently to do business at a loss of 2 cents on the hundred pounds below the profits accruing to elevators on the other line. Notice was given to the company, and it denied the Commission's authority to proceed and declined to answer interrogatories propounded to it. The evidence taken showed that all the roads operating in 100 per cent. territory charged a plus of 2 cents per one hundred pounds, excepting the Chicago Division of the Big Four. The Commission determined the cause and recommended the discontinuance of the differential. Subsequently on the 23d day of August, 1906, the company filed with the Commission a new tariff on all its lines in Indiana, placing all points theretofore carrying a plus upon an equality with the Chicago Division.

CAR SHORTAGE AND DISCRIMINATION.

No. 41.—*Jacob D. Rich, of Brooke, Ind., v. C. & E. I. Railroad Company.*

Complainant advised Commission that his station, Julian, was not receiving its relative share of cars for grain and that other places were receiving many more, resulting in discrimination against him in the distribution of cars by the C. & E. I. Railroad Company. This matter was promptly taken up by the Commission by correspondence with the general freight agent of the C. & E. I. Railroad Company, and cars were so furnished the complainant that he has advised the Commission that he has received the requisite number of cars, and that he is of the opinion that the action of the Commission caused him to be supplied with cars.

SWITCHING COAL.

No. 42.—*Jno. F. Powell v. Big Four R. R. Co.*

January 27, 1906. In this case complaint was made that the Big Four Railroad at New Ross, Indiana, declined to switch coal to complainant which he had received over the Central Indiana Railroad Company. Commission presented the complaint to the Big Four and that company declined to do the switching, claiming the complainant had no private track, and the complainant not having filed any formal complaint the Commission was powerless to take any other action and so the matter was closed.

RATES ON BRICK TO INDIANAPOLIS.

No. 43.—*Veedersburg Clay Co. v. Big Four Railroad Co.*

February 2, 1906. Veedersburg Clay Company complained that rates on brick from Danville, Illinois, to Indianapolis were less than from Veedersburg, the latter being a much shorter haul. Matter taken up by the Commission. Correspondence with the assistant general freight agent of the Big Four resulted. That company showed that the rates were 50 cents a ton from each place and that at Veedersburg a switching charge of \$2 per car on brick off the C. & E. I. Ry. from Wabash Clay Co. was absorbed by the Big Four in order that both plants might be put on an equality. The Veedersburg Clay Company was advised of the answer given by the Big Four Railroad and appears to be satisfied therewith.

SWITCHING CHARGES.

No. 44.—*Veedersburg Clay Co. v. C. & E. I. Railroad Co.*

February 2, 1906. Complaint by the Veedersburg Clay Company, located on the Big Four track, of the switching charge of \$3 a car on coal coming in over the C. & E. I. Railroad Company for them. Matter taken up by the Commission, correspondence and negotiations with the railroad company which resulted in orders from the railroad company to the local agent to hereafter absorb such switching charges. Action communicated to the complainant and was satisfactory to it. Matter closed.

CARRIER'S REFUSAL TO FORWARD CAR OF HAY.

No. 45.—*T. M. Kehoe & Co. v. E. & T. H. Railroad.*

February 2, 1906. Kehoe & Company complained that the railroad company refused to forward a car loaded with hay at Shelburn, Indiana. Matter investigated by the Commission and facts found to be that Kehoe & Company had taken this car and loaded it against protest of the local agent, who advised them at the time that this particular car could not be allowed to go to the point desired. A copy of this explanation of the railroad company was promptly forwarded to Kehoe & Company, whereupon complainants advised that they had brought suit against the railroad company in the local courts, and there being no formal complaint, this matter, so far as the Railroad Commission is concerned, was closed.

COAL RATES FROM CERTAIN DISTRICTS.

No. 46.—*Veedersburg Clay Co. v. C. & E. I. Railroad Co.*

December 5, 1905. Veedersburg Clay Company made an informal complaint that the C. & E. I. R. R. Company charged 40 cents per ton to haul coal from Mecca, Indiana, to Veedersburg, while it charged the Wabash Clay Company at the same point only 35 cents a ton for the same service. Matter was promptly investigated by visit of a member of the Commission to Veedersburg to examine the records. The basis of complaint was sustained by the records and reported to the railroad company, and an interview had with the coal traffic manager and a reduction asked for, and after much correspondence the reduction asked for by the Commission to 35 cents a ton for all Veedersburg shipments was granted, and this matter was closed.

SWITCH CONNECTION.

No. 47.—*McFarland Carriage Company et al. v. C. H. & D. and Big Four R. R. Co.*

November 10, 1905. Informal complaint to the effect that these two railroad companies crossing each other above grade at Connersville made no physical connection and refused to interchange

business. Matter taken up by the Commission with officers of the C. H. & D. R. R. Co. and the Big Four, and the site visited by the Commission and the secretary, a survey made by the engineers of the railroads, assisted by an engineer appointed by the Commission, and a final informal conference in the rooms of the Commission was held between the Manufacturers' Association of Connersville and the general managers of the railroad companies interested, at which conference the railroad companies finally declined on the ground of expense and impracticability of making the connection. Whereupon the Manufacturers' Club and others interested at Connersville filed formal petition with the Commission to have this connection made, which petition is now pending. See regular docket No. 55.

DANGEROUS HIGHWAY CROSSING.

No. 48.—*George F. Myers et al. v. Big Four Railroad Co.*

February 14, 1906. Complaint of Geo. F. Myers and thirty-three other citizens residing in and near Crawfordsville, Indiana, that a highway crossing over the Big Four Railroad near Crawfordsville was dangerous. A full investigation of this matter, after notice to the railroad company, was made by a member of the Commission, evidence taken and a report filed, showing:

1. Profile of highway, railroad and side banks of right-of-way.
2. Plat showing location and lines of vision.
3. Plat submitted by respondent showing location and profile of highway.
4. Profile of railway submitted by respondent.
5. A photograph of the location looking east from the crossing.

In the report made to the Commission, protection of this highway was suggested as follows: "The law requires respondent to maintain a crossing sign at this point. This is a continuing liability and expense. It serves no useful purpose at night. Many States require the use of, and some roads in this State use, electric crossing bells to protect crossings of this character. The bell and crossing sign may be combined in one structure. Such a structure at this crossing, with a track circuit of 3,000 feet, can be installed for about \$185, exclusive of the crossing sign and necessary in-

sulated joints. The material for maintenance would cost annually about \$30."

On this report the Commission made a recommendation in accordance therewith as follows: "That the respondent erect and maintain at such highway crossing a combination electric bell and crossing sign with 1,500 feet of track circuit on each side of the highway crossing."

A copy of the report and recommendation of the Commission, as required by law, was duly forwarded to the Governor of the State and to J. Q. Van Winkle, General Superintendent of the Big Four Railroad. On April 28, 1906, a letter was received from Mr. Van Winkle agreeing to put in the protection for the crossing as required by the Commission.

This action was communicated to the petitioners in this cause and letter received from them thanking the Commission for the action and saying the same was satisfactory, and the matter was closed.

CAR SHORTAGE.

No. 49.—*Advance Grain Company v. Central Indiana R. R. Co.*

February 26, 1906. Advance Grain Company made informal complaint that they had received no grain cars since January 24th and had made contracts for February shipments. This matter was taken up at once with the general freight agent of the Central Indiana by wire and a letter was promptly received from him saying that three cars had been at once forwarded to Advance on that date and complainant notified. Afterwards a letter was received from complainant that cars had been furnished them by the railroad company, and this matter was closed.

STATEMENT OF ADVANCE CHARGES ON EXPENSE BILL.

No. 50.—*Romona Oolitic Stone Co. v. Chicago, Indianapolis & Louisville Railroad Co.*

February 7, 1906, complaint made that the Monon Railway refused to note on expense bills advance charges made by the railroad companies. Matter taken up by Commission, correspondence

had with the C., I. & L. R. R. Company, which finally declined to comply with the request of complainant. No formal petition was filed with the Commission and no further action could be taken.

EXPORT RATES ON GRAIN.

No. 51.—*Advance Grain Co. v. Central Indiana, Big Four and P., C., C. & St. L. Ry. Cos.*

March 2d filed verified petition charging the Central Indiana with charging two cents per hundred more on grain to the seaboard than was charged on the Big Four at points near by and a similar distance from the seaboard. Matter taken up by correspondence and personal interviews with the managers of the Central Indiana, and they were asked to reduce the rate so as to be in harmony with the rate that obtained on the Chicago division of the Big Four. After some conferences the road granted the request and the rate was put into effect, thus saving to the shippers at that point about \$12 per car on export grain and placing such point on a market basis equal to its competitors on a business of 150 to 200 cars of grain per year.

ELEVATOR SWITCH.

No. 52.—*S. W. Myers, Monticello, Ind., v. P., C., C. & St. L. Railroad Co.*

March 7, 1906, complaint made that railroad declined to put in a switch at a point half way between Monticello, Indiana, and Reynolds, Indiana. The secretary of the Commission wrote the applicant for further information. This letter has not been answered and the Commission being without any further information or facts on which to act no action has been taken.

COAL RATES.

No. 53.—*Manufacturers of Ft. Wayne, Ind., v. Railroad Companies.*

March 2, 1906, informal complaint made to the Commission that the rates on coal from Southern Indiana to Ft. Wayne and from the eastern coal fields to Ft. Wayne were too high. This

matter was investigated partly by session of the Commission held at Ft. Wayne, in which a good many witnesses were examined as to these rates. Afterwards Commission continued its investigation and commenced negotiations with the Vandalia Railroad Company, with the C. & E. I. Railroad Company, with the E. & T. H. Railroad Company, with the Lake Erie & Western Railroad Company, with the Illinois Central Railroad Company and the Wabash Railroad Company in order to effect, if possible, a reduction in these rates. At one time during these negotiations a promise was actually made to the Commission to reduce these rates. Afterwards upon application by the Commission to be informed why the reduction was not made response was made that the rates could not be reduced. The Manufacturers' Club of Ft. Wayne was then advised by the Commission that the Commission could proceed no further without the filing of a formal complaint against the railroad companies and thereupon a formal complaint was duly filed asking that a reasonable rate on coal be made to Ft. Wayne. This complaint was filed and is docketed as No. 46 on the regular docket. Before evidence was taken the railroad companies indicated to the Commission a willingness to take the matter up again by conference and finally agreed, by long distance telephone between St. Louis and Indianapolis, the Vandalia Railroad Company acting for the railroad companies, to put in a reduction of 10 cents a ton on eastern coal, of 15 cents a ton on coal from the Linton district, Indiana, and of 20 cents a ton on coal from the Brazil district if the petition would be withdrawn. The Commission, considering the enormous amount that would be saved to the people of Ft. Wayne and to other cities and towns in northern and eastern Indiana by this reduction, agreed that if it was at once made and tariffs published showing the reduction it would suggest a withdrawal of the petition, and the tariffs were promptly filed. Suggestion was made to the Manufacturers' Club that the rates had been published and put in force and the petition was promptly and gladly withdrawn. It is estimated that the reduction will save between \$50,000 and \$75,000 a year to Ft. Wayne alone.

The result of this reduction at Ft. Wayne, as was anticipated, caused lower rates to be made to other towns; for instance, the rate to Lafayette, Indiana, which had formerly been 80 cents, was reduced to 65 cents and the rates to other towns in proportion.

One of the results following this action by the Commission will be the movement of great quantities of coal from the Indiana coal fields to Ft. Wayne and other points in northern Indiana, whose demands have heretofore been supplied from Ohio and West Virginia. The reduction on Indiana coals being greater than on the eastern coals, it is hoped the traffic will remain at home and that home operators and home miners will hereafter receive the profits and wages accruing therefrom.

Some of the changes and reductions, although by no means all of them, to various localities in the State are shown by the following table:

<i>To</i>	<i>Before Railroad Commission was Created.</i>		<i>Since Railroad Commission was Created.</i>	
	<i>Mfrg. Rate.</i>	<i>Dom. Rate.</i>	<i>Mfrg. Rate.</i>	<i>Dom. Rate.</i>
Attica	60-80	.....	50-60	.....
Roy Roy	60-80	.....	50-60	.....
Aylesworth	60-80	.....	50-60	.....
Gas Belt	60	.....	60*	.....
Evansville	40-50	.....	30-35	40
Beck's	50-65	.....	40-45	50-55
Brownstown	60	.....	50	.....
Bretzville	60-65	.....	40-45	60-65
Birdseye	60-65	.....	40-45	60-65
Boonville	40-50	.....	30-35	40-50
Bradley	40-50	.....	30-40	40-50
Buffaloville	40-50	.....	30-40	40-50
Corydon Junction	80-85	.....	40-45	75-80
Corydon	80-85	.....	55-60	75-80
Crandall	80-85	.....	40-45	75-80
Chandler	40-50	.....	30-35	40-50
Chrisney	40-50	.....	30-40	40-50
Cannelton	40-50	.....	30-40	40-50
Duff	50-55	.....	35-45	35-50
DePauw	80-85	.....	40-45	75-80
Duncan	80-85	.....	40-45	75-80
Dale	40-50	.....	30-35	40-50
DeGonia	40-50	.....	30-35	40-50
E. Mt. Carmel.....	50-65	.....	40-45	50-55
Eckerty	75-80	.....	40-45	70-75
English	75-80	.....	40-45	70-75
Evanston	40-50	.....	30-40	40-50
Francisco	35-50	.....	35-45	35-45
Ferdinand	50	.....	30-35	40-50
Georgetown	80-85	.....	40-45	* 75-80
Gentryville	40-50	.....	30-35	40-50

*Approved by Commission.

To	Before Railroad Commission was Created.		Since Railroad Commission was Created.	
	Mfrg. Rate.	Dom. Rate.	Mfrg. Rate.	Dom. Rate.
Hartwell	35-50	.....	35-45	35-45
Huntingburg	50	.....	35-40	35-50
Jasper	50-55	.....	40-45	50-55
Kyana	60-65	.....	40-45	60-65
Kennedy's	40-50	.....	30-40	40-50
Lehman .....	.....	.....	40	.....
Lyles	50-65	.....	40-45	50-55
Lincoln City	40-50	.....	30-35	40-50
Lamars	40-50	.....	30-40	40-50
Mitchell	60	.....	40	.....
Mentor	60-65	.....	40-45	60-65
Marengo	80-85	.....	40-45	75-80
Milltown	80-85	.....	40-45	75-80
Motts	80-85	.....	40-45	75-80
New Albany	50	.....	40-45	50-60
Parker's Switch	50-65	.....	40-45	50-55
Princeton	35-50	.....	35-45	35-45
Pigeon	40-50	.....	30-35	40-50
Irceville	75-80	.....	40-45	70-75
Ramsey	80-85	.....	40-45	75-80
Rock Hill	45-50	.....	30-40	45-50
Rockport	45-50	.....	30-40	45-50
St. Anthony	60-65	.....	40-45	60-65
Stevenson	40-50	.....	30-35	40-50
Smythe	40	.....	30-35	40
Taswell	75-80	.....	40-45	70-75
Temple	80-85	.....	40-45	75-80
Tennyson	40-50	.....	30-35	40-50
Troy	40-50	.....	30-40	40-50
Tell City	40-50	.....	30-40	40-50
Velpen	50-55	.....	35-45	35-50
Winslow	35-50	.....	35-45	35-45
Stinesville	60	.....	45	.....
Cloverdale	80	.....	50	.....
Greencastle	60	.....	50	.....
Limedale	60	.....	50	.....
Oakland	80	.....	50	.....
Quincy	80	.....	50	.....
Michigan City	95	.....	80	.....
Rensselaer	1.20	.....	80	.....
Roachdale	80	.....	65	.....
Sanders	80	.....	50	.....
Shelby	1.15	.....	80	.....
South Wanatah	1.10	.....	80	.....
Westville	1.20	.....	80	.....
Alida	1.20	.....	80	.....
Bloomington	80	.....	50	.....
Crawfordsville	70	.....	65	.....

<i>To</i>	<i>Before Railroad Commission was Created.</i>		<i>Since Railroad Commission was Created.</i>	
	<i>Mfrg. Rate.</i>	<i>Dom. Rate.</i>	<i>Mfrg. Rate.</i>	<i>Dom. Rate.</i>
Delphi	90	.....	80	.....
Dyer	1.10	.....	80	.....
Lafayette	80	.....	55-65	.....
Ft. Wayne	1.10	.....	95	.....
Laporte .....	.....	.....	90-95	.....

Rates on coal to numerous other points have been materially lowered, as on the Monon, that company having revised and lowered all its coal rates. Rates on eastern coal into Ft. Wayne were lowered 10 cents, and on anthracite coal from the east to points on the Louisville division of the Pan Handle as far as Shelbyville there has been a reduction in the rate of 40 cents per ton. Where two rates are shown, they signify the rates from different portions of the Indiana coal fields.

COAL RATES.

No. 54.—*Manufacturers of Peru v. Railroads.*

March 9, 1906. Informal complaint about coal rates to Peru, Indiana. Negotiations with the railroad companies asking for a reduction of the rate. Railroad companies claim that the rate to Peru is no higher than the rates to other points in the State. No formal complaint filed and no action taken.

RATES ON TIES.

No. 55.—*Chas. F. Smith v. Southern Indiana Ry.*

March 14, 1906. Complaint of the rate on railroad ties from points on the Southern Indiana between Bedford and Seymour to Westport, Indiana, rate in effect 7 cents per hundred pounds. Considerable correspondence and negotiations followed, resulting in a reduction to 5 cents per hundred pounds, going into effect on April 25th. This information was communicated to the complainant and on April 30th he advised by letter that the rate was satisfactory and the matter was closed.

LUMBER RATES.

No. 56.—*T. E. Day v. Pan Handle and B. & O. S. W. Rys.*

February 13, 1906. Complainant, a lumber mill man, complained that he had prospective business to Cincinnati and other points east from Francisco switch on Madison branch of the Pan Handle, and that the Pan Handle insisted on carrying the traffic over its entire line via Columbus and Richmond to Cincinnati, 174 miles, and refused to make a joint rate with the B. & O. S. W. through North Vernon. The subject was fully investigated and the B. & O. S. W. agreed to join in a 7-cent rate with the Pan Handle, which would place complainant on an equality with other points on their line and let him into the Cincinnati market. The Pan Handle, after a lengthy conference held with the Commission at its rooms, refused to join in this rate, claiming it was less than sixth class, which was their minimum lumber rate, and for the further reason that complainant's goods were not a drug on the market and could be sold at many points reached by their lines besides Cincinnati, Hamilton and Dayton. This being an interstate rate and the law then not being such as to compel the making of *through* rates, the cause was dismissed as being one where the apparent hardship could not be corrected. The Hepburn act now furnishes a remedy in such cases.

COAL RATES.

No. 57.—*John H. Luckett v. Southern Ry.*

In this matter the complainant claimed that the railway company was hauling coal through English to Milltown for 40 cents per ton and charging 70 cents for coal to English, resulting in unjust discrimination and violation of the long and short haul clause of the law. The charge being a serious one, careful investigation was made of the rates effective to these points, and the following letter was mailed to complainant by the secretary under the direction of the Commission:

July 2, 1906.

Mr. Jno. H. Luckett, Attorney at Law, English, Ind.:

Dear Sir—After considerable delay we have finally received the present coal tariffs in effect on the Southern Railway. Present tariff was

issued April 23d, and became effective May 1st, which publishes rates into English from Francisco and Princeton, the Ayrshire group and Boonville group of mines, at 70 cents, and from Cannelton mines at 75 cents.

There are exceptions to this tariff in this—that from all Indiana mines to Milltown, Marengo, Birdseye, DePauw and other points, there is a rate of 40 cents per ton on coal, to apply only for steaming and manufacturing purposes and not for domestic consumption.

The Commission has had nothing to do with the establishment of these rates, but it recognizes the right of the railway to make a less rate for steaming and manufacturing purposes than it makes on coal for domestic consumption. The law authorizes this on account of the supposed outgoing tonnage from the manufactory. If you have steaming or manufacturing plants in your city you, no doubt, could obtain a concession on coal which would be used by them.

We are without authority to compel the railroad to make any change or modification in its rates unless a verified petition is filed as required by the statute. If you think you could show that the rates on coal into English for domestic consumption are unreasonable and will file a verified petition the Commission will at once investigate the matter.

If there is any further information desired by you in regard to this matter the Commission will be glad to furnish the same.

Nothing further heard from and so the case closed.

DISCRIMINATION IN PASSENGER RATES.

No. 58.—*In Re G. R. & I. Ry. Co., Inquiry.*

Communication from James H. Campbell, Esq., acting general counsel of the G. R. & I. Ry. Co., submitting to the Commission question as follows: "G. R. & I. has in the past sold family tickets between Ft. Wayne and Rome City, a summer resort, on the G. R. & I. R. R., to members of the Cottagers' Association; ticket good for 100 trips has been sold for \$25, and to others not members of the association tickets have been sold good for 50 trips for \$18.75. The question is, does the difference in the price as stated constitute unjust discrimination under the law establishing the Railroad Commission, section 14 of that law?" to which inquiry the following response was made:

April 2, 1906.

Mr. J. H. Campbell, Acting Genl. Counsel, G. R. & I., Grand Rapids, Mich.:

Dear Sir—Your letter of March 26th, to the Railroad Commission of Indiana, has been referred to me. The Commission desires you to state clearly on what ground and for what reasons you made a rate of \$25 for 100 trips from Ft. Wayne to Rome City for members of the "Cottagers' Association," while you made a rate of \$18.75 for 50 trips to others not members of that association. Why was this classification made?

Under our statute commuters' tickets may be sold and party tickets under the Interstate Commerce Law may be sold, as you will find by referring to the case of Interstate Commerce Commission v. B. & O. R. R. Co., 145 U. S. 264. Had you made a rate good for all persons of \$25 for 100 tickets and another rate good for all persons of \$18.75 for 50 tickets, it seems there would have been no difficulty. At all events before answering your question, we desire to know the facts about this case and why it was you differentiated the owners of cottages at Rome City who reside in Ft. Wayne from other persons residing in Ft. Wayne who made just as many trips, but who do not own cottages.

On July 14th, 1906, the following letter showing that the railroad had adopted the construction of the law made by the Railroad Commission was received from its counsel, and this matter was closed:

Grand Rapids, Mich., July 14, 1906.

To the Honorable Railroad Commission of Indiana, Indianapolis, Ind.:

Price of Cottagers' Tickets from Ft. Wayne to Rome City.

Gentlemen—Referring to my letter to the Commission, dated March 26, 1906, and the reply thereto in behalf of the Commission by Hon. W. J. Wood, Commissioner, dated April 2d.

I referred Commissioner Wood's letter to the officers of the Grand Rapids & Indiana Railway, and am advised that for the present season tickets good for 100 rides, at a uniform price, have been placed on sale.

I write this upon suggestion of Commissioner McAdams, made to me orally in the office of the Commission at Indianapolis on the 11th, so that you will have in your files formal notice that the matter has been disposed of in accordance with the views of the Commission.

PROTECTING CROSSING.

No. 59.—*Toledo, Ft. Wayne & Western R. R. Co. v. Ft. Wayne & Wabash Valley Trac. Co.*

On the 20th of March, 1906, Mr. Shane, superintendent of bridges of the Toledo, St. Louis & Western Railroad Company, submitted to the Commission plan for device for protecting crossing of that road with the Wabash Valley Traction Company near Bluffton, Indiana, accompanying the same by letters from the general manager of the last-named road and the Union Switch and Signal Company. These plans and letters were submitted to George U. Bingham, engineer for the Commission, for examination and report. Mr. Bingham did not deem the plans submitted

safe, and, acting upon his recommendation, the Commission refused to approve the same. Later a conference was held between the officials of the two roads and the Commission, and an effort was made to agree upon a plan for plant in order that the same might be submitted to the Commission for approval, but at the time of making this report it had not been so submitted.

DISCRIMINATION IN COAL RATES.

No. 60.—*Jones Lumber Company v. C., I. & L. Railroad.*

The Commission received a letter from Jones Lumber Company, of Bloomfield, Indiana, on April 2d, complaining that the Monon Railway charged 75 cents per ton for hauling coal from New Summit mine, near Linton, to Bloomfield, Indiana, a distance of twelve miles, and that it was hauling coal from mines in the same locality, in which the officials of the Monon road were interested, at 50 cents per ton. The Commission instructed its secretary to visit Bloomfield and investigate this charge. On the 4th day of April the secretary made such investigation and reported to the Commission that he could find no evidence of the discrimination charged, and the matter was closed.

RATES ON POWDER.

No. 61.—*C. A. Spensley, Sales Agt. E. I. Dupont Co., v. Southern Indiana R. R. Co.*

April 12, 1906, C. A. Spensley, Sales Agent of the E. I. Dupont Company, applied to the Commission for schedule of rates on common black powder from Coalmount, Indiana, to numerous stations on the S. I. Railway, claiming that the road made special rates on same kind of shipments in favor of a plant that manufactured powder at Coalmount. On the 14th of April, Commission wrote Mr. Radley, General Freight Agent, for rates to all points, enclosing a list of stations. On the 18th of April we received a list and advised complainants that rates were on file in this office subject to inspection. The rates as filed and the information obtained by the Commission did not sustain the charge of discrimination and the matter closed.

RATES ON BRICK.

No. 62.—*H. C. Martin & Co. v. C. & E. I. Railroad.*

In this case the complaint concerned the rates on brick from Veedersburg and Brazil to Attica, the rates from Veedersburg, the shorter haul, being 50 cents, and from Brazil, the longer haul, bring 40 cents. The rate from Veedersburg to Crawfordsville on the Big Four being 30 cents, it was claimed that rate to Attica, a like distance, should be the same. The company, on complaint being made, offered to reduce the Veedersburg rate to 40 cents, but never filed any tariff doing so. The Commission, in addition to proposed reduction in rate, requested an absorption of the Wabash switching charge of \$2 per car at Attica for delivery to complainant, but the company refused so to do.

LONG AND SHORT HAUL RATES ON LUMBER.

No. 63.—*J. D. Smith & Son v. Wabash and other railroads.*

On April 17th the Commission received a letter from J. D. Smith & Son, of Wabash, Indiana, stating that they were being charged a 5-cent rate for hauling lumber from Columbia City and the region of Churubusco, Indiana, to Wabash and Peru, while they were compelled to pay an 8-cent rate for hauling lumber to Andrews, a distance from 15 to 25 miles less. The Commission took the matter up with the various railroads interested and ascertained that the Vandalia road was the only road that was violating the long and short haul clause. The Vandalia was advised of this fact and was asked to modify their rates to comply with the law. This request of the Commission has been complied with, and a new tariff published which complies with the law.

DOUBLE PAYMENT.

No. 64.—*W. H. Jenkins v. Adams Express Co.*

W. H. Jenkins complained of the Adams Express Company and charged that he had been compelled to pay expressage twice on certain oyster cases shipped to Crestfield, Maryland. The respondent made affidavit that such payment had not been made, and

the matter being one over which the Commission had no jurisdiction the complaint was withdrawn, papers returned to the petitioner and the case closed.

FAILURE TO FURNISH GRAIN DOORS.

No. 65.—*McCoy Brothers v. C., H. & D. R. R.*

April 27th Commission received a complaint from McCoy Bros., grain dealers of Liberty, Indiana, advising that their shipments of grain were often delayed because of the failure of the C., H. & D. R. R. to furnish grain doors. Occasionally the agent of the railroad company would permit them to make grain doors and file claims for them, but that payment of these claims was at times delayed as much as six months. The Commission investigated the matter and was advised by J. A. Gordon, General Superintendent of the C., H. & D., that the reason for failure to furnish grain doors was a shortage in material due to the fact that orders which had been placed with southern mills were delayed on account of yellow fever, which resulted in quarantine restriction, and advising the Commission that the claims of McCoy Bros. had been settled and that in the future grain doors would be furnished as promptly as possible.

SEABOARD RATES ON GRAIN.

No. 66.—*Willis Samuels et al. v. L. E. & W. Railroad.*

On May 9, 1906, Willis Samuels, of Boswell, Indiana; the Farmers' Co-operative Grain Association of Boswell, Indiana; Samuel Van Steenburgh, of Talbott, Indiana; F. A. Vant, of Talbott, Indiana; Somers Brothers, of Ambia, Indiana, and Harlan Bros., of Ambia, Indiana, all grain dealers at such places, and operating elevators on the line of such railroad, filed their complaint with the commission under Section 11, Par. C, of the law, charging that such company arbitrarily charged each of them two cents per hundred pounds on grain shipments to eastern points, for domestic consumption and for export, in excess of the freight charges made at Chase, a competing point, and in excess of charges on like grain at competing points on the Big Four. The Commission fixed a day for hearing the petition and notified Hon. John

B. Cockrum, General Attorney for the company, and invited him to be present or have a representative present at the hearing. He denied the authority of the Commission to proceed in the premises, stated that the rates were in accordance with the law and refused to appear. The Commission heard the evidence on July 27th at Lafayette; the evidence sustained the petition and showed that some of these elevators paid as much as \$1,500 per year in freight in excess of rates paid by their competitors for a like business. While the Commission had the cause under consideration, the railroad company revised its tariffs, and on August 18th filed with the Commission a tariff granting all the relief asked by the petitioners and the cause was dismissed.

CLASSIFICATION OF WOODEN PLUGS.

No. 67.—*North Vernon Box Co. v. B. & O. S. W., and P., C., C. & St. L. Ry. Cos.*

In this case the petitioners complained that wooden plugs manufactured by them were improperly classified as third-class instead of fourth-class in comparison with similar articles known as plugs for railroad ties. After some correspondence the complainants filed formal petition, which was heard by the Commission in the regular way, and finally dismissed. (See No. 45, entry docket No. 1.)

LONG AND SHORT HAUL.

No. 68.—*State of Indiana v. C., I. & L. Railway Co.*

This is a case in which the C., I. & L. Railway Company is charged with violating the long and short haul clause of the statute in that it charged 90 cents per ton for hauling coal from the Victoria mines to Cloverdale, Indiana, a distance of 55.7 miles, while it charged but 60 cents per ton for hauling coal from the same point to Greencastle, Indiana, a distance of 67.1 miles. Other cases of violation of this statute were also cited, the matter was referred to the Attorney-General and he was asked by the Commission to proceed to collect penalties. Suit was immediately brought and is now pending in Putnam Circuit Court. The Monon Company having made a general reduction in its coal rates

over its entire line ranging from 6 to 37 per cent. of a reduction, and complying thereby with the request of the Commission, this cause was dismissed.

LONG AND SHORT HAUL.

No. 69.—*State of Indiana v. C. & E. I. Ry. Co.*

In this matter the Commission discovered that this company had charged H. C. Martin & Co. 40 cents per ton for hauling brick from Brazil, Indiana, to Attica, Indiana, while it charged 50 cents per ton for hauling brick from Veedersburg to Attica, a lesser distance and in the same direction. The facts were reported to the Attorney-General, and he was requested to take such action as the facts warranted. A suit was promptly filed to recover the penalty provided for such violations of the law.

After the filing of the suit it was learned that the company had issued to its local agents special billing instructions covering these shipments. The rates at Brazil being thus changed between the dates of shipments, the company did not violate the law, and the cause was dismissed by direction of the Commission. This case forcibly illustrates the necessity for the law to be so amended as to require the filing of all tariffs with the Commission when issued.

TRANSFER CAR OF LUMBER.

No. 70.—*Eaglesfield Lumber Co. v. Indianapolis Union Ry. Co. et al.*

The Commission was advised by telephone by the Eaglesfield Lumber Company of the failure of the Indianapolis Union Railway Company and Belt Railroad Company to deliver car of lumber, initial I. C. 11365, consigned to said lumber company, which had been detained thirty days at the terminal of the Indianapolis Southern Railway, the Belt Railway having declined to receive the same because no contract for delivering had been effected between the two roads. The matter was taken up by the Commission by telephone with the Belt authorities, resulting in the immediate delivery of the car.

RATES ON SAND.

No. 71.—*D. M. Million v. P., C., C. & St. L. R. R.*

D. M. Million complained to the Commission that the rate on sand and plastering cement from Lake Cicott to Burnettsville, a distance of three and one-quarter miles, was 40 cents per ton, and asked for a lower rate. The Commission took the matter up with Guy H. McCabe, division freight agent of the P., C., C. & St. L. R. R., and was advised by Mr. McCabe that Mr. Million was mistaken in the rate quoted, and that the rate now was 30 cents per ton. Later the Commission was advised by Mr. Million that he had been misinformed and that Mr. McCabe's statement of the case was correct, and the matter was closed.

RAILROAD COMMISSION OF GEORGIA.

No. 72.

At a session of the Commission held the latter part of May Commissioner Wood was asked to call upon the Railroad Commission of Georgia and get such information as he could concerning car service and demurrage rules in force in that State. In compliance with this request, Judge Wood visited Atlanta and investigated the two matters thoroughly, and upon his return filed his report as follows:

Indianapolis, Indiana, June 6, 1906.

To the Railroad Commission of Indiana:

Pursuant to the request of the Commission, I visited Atlanta, Ga., to investigate the Reciprocal Demurrage System of that State.

I find and report:

I.

That the statute under which the Georgia Commission issued its Circular No. 311, promulgating rules for the receipt, forwarding and delivery of freight by railroad companies, was enacted August 23, 1905, and said circular was issued after a public hearing of the railroad companies and others interested, on October 12, 1905. There has hardly been time to develop all that may result from the carrying out of these rules. The assistant secretary of the Commission advised me, however, that they had been acquiesced in by the railroad companies, who had paid generally without litigation the shippers' claims accruing under them. I make a part of this report the 33d report of the Railroad Commission of Georgia, containing on page 122 the statute of Georgia referred to, and I append a printed copy of circular No. 311 of said Commission, calling attention to Storage Rules Nos. 1, 9, 10, 11 and 12.

II.

I find that under rule No. 9, requiring cars to be furnished for carload shipments within four days after written application, where there was a failure to so furnish the cars, complaint was made to the Railroad Commission, and the secretary would promptly advise the railroad company at fault of the failure and order said company to furnish the cars then and afterwards in accordance with the rule. In the event of noncompliance with said written order, the case would have been reported to the Attorney-General for suit for damages. The secretary stated that the companies had so generally complied with the rule and with the orders of the Commission, that no case under this rule had been reported to the Attorney-General.

III.

I find that under rule 10, providing that freight shall be transported at least 50 miles a day, and providing a penalty of \$1 a car for carload lots, and one cent a hundred pounds for less, for each day's delay so to carry said distance, that a great many claims have been presented by shippers for such delays and have been generally paid without litigation.

IV.

In order to be fully informed, and to get the railroad's side of the questions involved in the investigation, I called on J. C. Haskell, Esq., Manager Southeastern Car Service Association, whose jurisdiction includes the States of Georgia, South Carolina and Florida. In South Carolina and Florida the car service rules are not as full and reciprocal as in the State of Georgia. Mr. Haskell was not in the city. It was he who represented chiefly the railroad companies on the public hearings when these car service rules were adopted, and I regretted to miss him. However, his chief clerk, Mr. F. M. Harden, was fully informed and answered willingly all questions propounded to him. Mr. Harden stated that since the rules were adopted in October, 1905, four hundred claims by shippers for delays in furnishing cars and forwarding freight had been filed with the Car Service Association and paid and adjusted, or were pending. In answer to my question of what objections he would suggest to these rules, he said that there were times when it was simply impossible to furnish all the cars required by shippers; and that in such cases many claims would be made; and that also, when the car shortage was worst, the effect would be to prefer local to interstate business, since no such penalties affected interstate business. He stated also that car service rules could not be enforced so as to require one railroad to yield its terminal facilities to another road; and therefore if demurrage rules were put in force, yielding penalties to shippers, against switching lines, these lines would refuse to receive the freight.

V.

In considering the making of freight rules by this Commission, I beg leave to call the attention of the Commission to the very full storage rules of the Georgia Commission in force before 1905, and contained in the book attached hereto on pages 46, 47, 48 and 49.

Respectfully submitted,

(Signed) W. J. WOOD,
Commissioner.

Judge Wood also submitted as a part of his report circular No. 311 of the Railroad Commission of Georgia, containing car service rules made by that Commission. A formal complaint having been filed on the subject of car service, the matter was heard and disposed of in the regular way. (See No. 41, Entry Docket No. 1.)

BILLING WEIGHT OF CARS.

No. 73.—*W. J. Hauger v. Chicago, Indianapolis & Louisville Ry. Co.*

In this case the Commission was advised that the C., I. & L. Railway Company, commonly known as the Monon, was charging freight beyond the capacity of its cars. It was found that under rule 1000 the railroad company required coal cars to be waybilled at actual weight, but not less than 95 per cent. of the marked capacity of the car. In this particular case a car of coal shipped from E. T. Slider, at New Albany, to Mr. Hauger, at Salem, the car was billed at a much greater weight than it was possible to get into it. The matter was taken up by the Commission and a member of the Commission visited the general offices of the Monon Company at Chicago. Said officers agreed to make a reinspection of all their coal cars as soon as it could be reasonably done, to the end that such cars should be so constructed and their rules so modified that no shipper would be required to pay for more freight than was actually loaded and hauled. Meanwhile said company issued its Authority No. 582, effective August 25, 1906, with minimum of 80 per cent. instead of 95 per cent. of marked capacity of car.

DISCRIMINATION IN EXPRESS SERVICE.

No. 74.—*W. H. Howe v. American Express Co. et al.*

On June 20th Mr. W. H. Howe, of the city of Indianapolis, addressed a letter to Governor Hanly, complaining that the American Express Company was discriminating against suburban residents in that it was charging from 10 to 25 cents each for delivering packages, and that it discriminated as between suburban residents in that it delivered to some persons free of cost, while a charge was made to other persons similarly situated. The letter

was referred to the Commission by the Governor and the matter was immediately investigated. The Commission directed its secretary to visit North Indianapolis and investigate the charges contained in Mr. Howe's letter. On the 3d of June the secretary did visit North Indianapolis, as directed, and reported to the Commission that the charges made by Mr. Howe were substantially correct. The Commission then subpoenaed Mr. R. P. Dodd, general agent of the American Express Company, to appear before it at its offices at the State House, in the city of Indianapolis, on the 10th day of July, who admitted that the company represented by him had what was known as "free delivery limits," within which all express matter was delivered without delivery charges and beyond which charges were made on all deliveries according to the size of the package. Mr. Dodd further admitted that in case a person to whom delivery was made refused to pay charges that the company or person making the delivery was instructed to deliver a package without pay and the bill was paid by the express company, thus discriminating against persons in the same locality.

The Commission also subpoenaed Mr. Asbury York, agent of the United States Express Company, to appear before it at its offices in the State House on the 11th day of July. In answer to questions by members of the Commission, Mr. York admitted substantially the same facts admitted by Mr. Dodd, and stated that his company also had free delivery limits, within which packages were delivered without charge and beyond which delivery charges were made and collected. He also stated that if persons refused to pay beyond the free delivery limits that packages were delivered without pay.

Mr. H. C. Brooke, agent of the Adams Express Company, was also subpoenaed to appear before the Commission on the 11th day of July, and in his examination by the Commission stated that the Adams Express Company had free delivery limits, within which packages were delivered without pay and beyond which no packages were delivered by his company at all. He further stated if an express package was received at the office of the Adams Express Company addressed to some person living beyond the free delivery limits that the consignee would be notified of the receipt of such package by the company by postal card, and that in case said consignee directed the Adams Express Company to have the

package delivered and designated some person or company to make the delivery that such directions would be followed, delivery being made at said consignee's expense, but that in case the consignee did not direct express company to have the package delivered it was held at the office until called for.

It appeared to the Commission that under the law these things constituted a discrimination against persons living beyond the free delivery limits of the city of Indianapolis, and the Attorney-General was called in consultation concerning the matter and was directed to employ Merrill Moores, Esquire, to assist in prosecuting the express companies for the recovery of penalties. Following a conference with the Attorney-General, the Commission caused the following communication to be addressed to that official:

Indianapolis, Ind., July 20, 1906.

Hon. Chas. W. Miller, Attorney-General, City:

Dear Sir—Supplementing the personal interview we had with you this morning, and for the purpose of complying with the law requiring the Commission to report to you such violations of the law as may come to its notice, we beg to report that the American Express Company and the United States Express Company, in the dispatch of their business in the city of Indianapolis, establish arbitrary free delivery limits, and outside of such limits deliver their packages to an employe for delivery to consignee. This employe makes charges for delivery where no objection is made by the consignee and waives the charge where objection is made. The Adams Express Company also has an arbitrary free delivery limit, and outside of this limit refuses to deliver packages. The Commission has taken certain evidence and procured certain affidavits concerning the particulars of this business, all of which have been delivered to you. The Commission suggests that prosecution should be commenced to recover such penalties as have accrued under the facts contained in the evidence and affidavits. Also that some appropriate action should be brought against the American and United States Express Companies to prevent their further practice along these lines, and that an appropriate action should be brought against the Adams Express Company to compel it to comply with the law compelling their delivery.

Yours very truly,

Pursuant to the request of the Commission, the Attorney-General has filed suits as directed, and the matter is now pending in the courts.

DANGEROUS BRIDGES, ETC., ON THE TOLEDO, ST.
LOUIS & WESTERN RY.

No. 75.—

On the 29th of June the Commission's attention was called to circular No. 254 of the Toledo, St. Louis & Western Railway, commonly known as the "Clover Leaf" Railroad, which circular gave notice to employes of such road that certain bridges and structures thereon would not clear a man on the top or side of the cars or engines, and also required employes of the company to sign the following receipt:

"I hereby acknowledge receipt of circular No. 254 showing location of bridges and other structures on the Toledo, St. Louis & Western Railway from Toledo to Madison, inclusive, and certify that I have entered into the employ of the Toledo, St. Louis & Western Railway Company with full notice of location of bridges and other structures and assume the risk of all danger arising therefrom."

This circular, with the form of receipt required by the company, caused much dissatisfaction among the railroad's employes, and the Commission asked Mr. McArdle, superintendent of the "Clover Leaf," to appear before it for a conference concerning this matter, which he did on the 10th day of July. The Commission suggested in this conference that the form of receipt which the employes were required to sign should be changed, and Mr. McArdle said he thought this suggestion could be complied with. Later the Commission was advised that the form of acknowledgment, or receipt, had been changed to read as follows:

"I hereby acknowledge receipt of circular notice No. 254 showing location of bridges and other structures on the Toledo, St. Louis & Western Railway from Toledo to Madison, inclusive, and certify that I have entered the employ of the Toledo, St. Louis & Western Railway Company with full notice of location of bridges and other structures. This receipt supersedes and cancels all previous acknowledgments."

On July 30 a member of the Commission visited Frankfort and held another conference with Superintendent McArdle in his offices in that city and was advised that the Cayuga water tank, which had been reported to the Commission as especially dangerous, was to be reconstructed; that the dangerous tank would be abandoned within thirty days and a standard tank substituted therefor and located about three-fourths of a mile east of the present tank. Judge Wood, who held the conference with Mr. McArdle, concludes his report as follows:

"With reference to the general subject of dangerous structures on the railroads in this State, the Wabash bridge of this road is a good illustration of general conditions. This bridge is 750 feet long, a steel bridge, twelve years old, of standard build. The portal bracing of this bridge is 20 feet 6½ inches above the top of the rail. There are 10 top struts or postal bracings on this bridge. It is possible that the bridge might be so reconstructed that these struts might be elevated so that there would be no danger from employes on top of freight cars, but even if this were done the bridge would remain only 14 feet wide and could not be widened without being entirely rebuilt. Now, when this bridge was built freight cars were about 8 feet wide, or a little more than 8 feet wide. There are cars now as wide as 10 feet, so that the truth is that while the cars and engines and rolling stock of the railroad companies have been increased in width, height and capacity, fixed structures have remained in many cases about the same height and about the same distance from the track.

"It is my wish to go into this matter further and report to the Commission some conclusion that I may be able to make hereafter on this subject. Meanwhile, the Toledo, St. Louis & Western Railroad Company, having altered their notice to employes in form, as requested by the Commission, and having agreed to reconstruct or put in new structures at Cayuga and Van Buren at a safe distance from the track, it appears that it may not be necessary to take any further steps in this particular case. This question, however, I beg leave to submit to the Commission."

RATES ON SCRAP IRON.

No. 76.—*The Simon Cook Company of Wabash v. The P., C., C. & St. L. Railroad.*

Simon Cook & Co., of Wabash, complained of the P., C., C. & St. L. Railroad in a letter addressed to the chairman of the Commission under date of June 27 that it was charging them an exorbitant rate on scrap iron from Winamac, Ind., to Wabash, Ind.; that they shipped a great deal of this product from Delphi, Ind., to Wabash, and that the rate was only \$1.10 per gross ton, while the rate from Winamac to Wabash was \$1.25 per gross ton, and that the distance being practically the same the rate to Wabash should not be higher than the rate to Delphi. The Commission took the matter up by correspondence with Guy S. McCabe, district freight agent of the P., C., C. & St. L. Railroad, at Richmond, Ind., and it was referred by Mr. McCabe to M. S. Connelly, of Chicago, General Western Freight Agent of the P. C. C. & St. L. Railroad, and on July 16 the Commission was advised by Mr. Connelly that on July 21 the Pennsylvania Railroad would put in a rate of \$1.00 per gross ton on scrap iron from Winamac, Ind., to Wabash, Ind., and the matter was closed.

RATES ON COAL.

No. 77.—*H. C. Arnold & Co. v. L. E. & W. Railroad.*

H. C. Arnold & Co., of Bluffton, complained to the Commission on June 29 that the reduction of 10, 15 and 20 cents on coal recently made to Ft. Wayne, Ind., was a discrimination against the city of Bluffton, and asked that the same rate be given them as was given to the city of Ft. Wayne. The matter was taken up by telephone with Mr. Sweet, general freight agent of the Lake Erie & Western Railroad, and by letter with Mr. Hodgdon, General Freight Agent of the Vandalia Railroad. On the 6th of July the Commission was advised by Hodgdon that the coal rate in effect to Ft. Wayne would go into effect to Bluffton in connection with the L. E. & W. Railroad at once. The request of the complainant having been complied with, the matter was closed.

JOINT RATES ON LUMBER.

No. 78.—*Mossman Lumber Co. v. Southern Railroad Co.*

In this case Cox & Hunter, attorneys for the Mossman Lumber Company, of Jasper, Ind., advised the Commission that rates to northern points were higher than from Evansville and other river points, and that they were too high. The matter was taken up with Mr. Campbell, of the Southern Railway, by letter, and in his reply Mr. Campbell asserted that rates were as low as could be maintained, and that the Southern made no rates north from river points. A copy of Mr. Campbell's letter was forwarded to the attorneys for the complainants, and they were advised by the Commission that no further steps could be taken in the matter without formal complaint, and no formal complaint having been filed the matter rests.

EXCESSIVE RATE FOR SEAT IN CAR.

No. 79.—*Wm. B. Downer, Richmond, Ind., v. Pullman Car Company.*

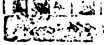
William B. Downer, of Richmond, Ind., complained to the Commission that the Pullman Company was charging an exorbitant price for seats in its chair cars between the city of Richmond and the city of Indianapolis. After consideration, Mr. Downer was advised that the matter was one over which the Commission had no jurisdiction.

RATE ON LIVE STOCK.

No. 80.—*Smallwood & Kinser v. C., I. & L. and Indianapolis Southern Railway.*

In this case Smallwood & Kinser, of Harrodsburg, Ind., complained that their station was being discriminated against in the matter of live stock rates to the city of Indianapolis, and alleging that the rate from Bloomington, Ind., was \$17 per car, while the rate from Harrodsburg, a distance of only eleven miles greater, was \$26. The matter was taken up by correspondence with the C., I. & L. and the Illinois Central railroads, and these roads de-

clined to modify the rates. The complainants were then advised that nothing further could be done without a formal petition, and no formal petition having been filed the matter rests.



CLASSIFICATION AND RATES ON LOGS.

No. 81.—*Adams & Raymond v. Railroads.*

In this matter the complaint concerned the classification and rates on log shipments to complainant's mills in Indianapolis. The entire inquiry concerns interstate business, and the complainant was referred to the Interstate Commerce Commission.

INSUFFICIENT NUMBER OF CARS FOR MELON SHIPMENT.

No. 82.—*W. F. Fisher et al. v. E. & T. H. Railroad.*

The Commission was advised by W. F. Fisher, of Patoka, Ind., that melon growers in that vicinity were not supplied with sufficient cars and switching facilities for handling their business. A member of the Commission investigated the matter, and at his instance the general freight agent of the railroad agreed to send a representative to that locality to investigate and remedy the difficulty, which was done. It developed in this inquiry that for the last eight years this company has furnished from two to four thousand cars per year to take care of the melon crop in this locality, and the entire service only covers a period of about six weeks each year. Under such circumstances the service rendered was not subject to criticism.

RATES ON COAL.

No. 83.—*The Gold-Morrow Milling Co. v. B. & O. S. W. Ry.*

The Gold-Morrow Milling Company, of Charlestown, Ind., complained to the Commission that said company was being charged an exorbitant rate on coal from New Albany to that city, and enclosed as an exhibit a freight bill for \$13.73, being in excess of the freight from Oakland City to New Albany, when the distance from New Albany to Oakland City was 93 miles and the distance from New Albany to Charlestown was 14 miles. The

Commission wrote Mr. S. T. McLaughlin, G. F. A. of the B. & O. S. W., advising him that in the opinion of the Commission the charge was exorbitant, and should be reduced to 30 cents per ton. He declined to comply with the Commission's suggestion, and the complainant was advised that no further steps could be taken without formal complaint, and at the time of making this report such complaint has not been filed.

CARS FOR WHEAT SHIPMENT.

No. 84.—*McCoy Brothers v. C., H. & D. R. R.*

In this case McCoy Brothers, of Liberty, Ind., complained that they were unable to get cars for wheat shipment and that Cottage Grove, a station near that place, was being supplied and that they were being discriminated against. The matter was taken up with the proper officials of the C., H. & D. and satisfactorily adjusted.

RATES ON SCRAP IRON.

No. 85.—*Simon S. Cook Company v. C. & E. I. and Big Four.*

On July 22 the complainants addressed a letter to the Commission asking reduction of rates on scrap iron from Veedersburg to Attica from \$1.40 to \$1.20 or \$1.25 per ton, alleging that rates formerly were \$1.25, but had recently been advanced to \$1.40. The matter was taken up with railroads mentioned and the general freight agent of the Wabash advised the Commission that it would be investigated and the Commission would be informed of what could be accomplished. The C. & E. I. informed the Commission that the present rate of \$1.40 would be maintained unless the Wabash would put in a lower rate. The Big Four Railroad squarely declined to reduce the rate from Veedersburg as requested. Nothing further having been heard from the roads, and no formal complaint having been filed, the matter was closed.

CAR SHORTAGE AND EXCESSIVE SEABOARD RATES.

No. 86.—*Kitchell Elevator Company v. Chicago, Cincinnati & Louisville Ry. Co.*

The Kitchell Elevator Company, of Kitchell, Ind., situated on the line of the Chicago, Cincinnati & Louisville Railroad Company, complained that it could get no cars for wheat shipments and that they were being discriminated against, inasmuch as cars were furnished to other shippers. Also that rates to seaboard were from 1½ to 3 cents higher than on the C., H. & D. and Pan Handle roads. The matter was taken up by 'phone with the district freight agent at Muncie, Ind., and a promise was made that a car would be furnished at once and that the greatest possible effort would be made to secure others, and the statement was made that if the complainant would ship to other points than Cincinnati that they might be able to get more cars. The shipper advised the Commission on the 3d of August that he was now receiving plenty of cars.

In the matter of seaboard rates considerable correspondence was had, but no satisfactory adjustment has been reached.

SWITCHING CHARGE ON COAL.

No. 87.—*Winchester Tile Company v. G. R. & I. R. R. Company.*

In this case complaint was made that the G. R. & I. charged a switching rate of 25 cents per ton for switching coal from the C., C., C. & St. L. tracks to a siding on the line of its road about a mile and a half distance from the Big Four switch. The Commission wrote the general freight agent of the Grand Rapids & Indiana Railroad for an explanation of this charge, and was advised by him that it was not a switching charge; that the Winchester Tile Company's plant was located at a station called Kelley, a mile and a half from the point where the G. R. & I. received coal from the Big Four, and claiming that the rate of 25 cents per ton for rebilling and shipping this coal from Winchester to Kelley was a reasonable charge. After some further correspondence, however, the G. R. & I. offered to make a reduction of 10 cents per ton and ship coal from Winchester to Kelley for 15

instead of 25 cents. This proposition was submitted to the complainant and proved satisfactory, and the rate has been put into effect.

CAPACITY OF COAL CARS.

No. 88.—*E. T. Slider v. C., I. & L. R. R.*

Complainant advised the Commission that in numerous instances he had been required to load cars that would not hold the amount of coal required under the rules of the road, and enclosed copies of correspondence between the complainant and the railroad officials. Matter taken up by the Commission, and overcharges adjusted and paid, and on September 24, 1906, Commission received a letter from the complainant referring to the efforts of the Commission to correct the main abuse complained of and saying, "Mr. O. C. Carter, of the Monon Railroad, has arranged with his agent here to bill out all coal that is loaded at my elevators at my weight, regardless of what is the stenciled capacity of the car. This, of course, is perfectly satisfactory to me and my trade as long as they continue to do so."

See also A. R. No. 73 for full correction of this trouble.

MINIMUM WEIGHTS ON CARRIAGES.

No. 89.—*McFarland Carriage Co. v. Railroads.*

Complaint August 6, 1906, that minimum weight on carriages, buggies and so forth, not uniform in the same territory to Texas common points, and that same works discrimination against Indiana manufacturers from \$20 to \$30 per car. Taken up by Commission with chairman of Western Classification Committee, and with the carriers, who have declined to make the changes. No formal complaint. Matter within jurisdiction of Interstate Commerce Commission.

DANGEROUS BRIDGE.

No. 90.—*Defective Highway Bridge at Putnamville on Monon Railroad.*

Reliable information having come to the Commission that the highway bridge over the Monon Railroad near Putnamville, in Putnam county, is dangerous, a member of the Commission was

directed to make preliminary investigation, and upon his report being filed a meeting of the Commission was fixed for September 20, 1906, to be held at the site of the bridge, and the company was notified to have its representatives present. On the day fixed the Commission visited the bridge, in company with a civil engineer and a photographer, and met the engineer of maintenance of way, also the superintendent of bridges and buildings of the company, in conference. After careful inspection and examination of the premises and inquiry into the facts, the Commission ordered a survey of the situation to be made, also ordered certain photographs of the site to be taken. After these were reported to the Commission, and after the company had submitted its survey, the Commission made its report and recommendations in substance as follows:

1. A finding that the bridge is located on the national road leading from Indianapolis to Terre Haute, which is now a part of the free turnpikes of Putnam county, in charge of its Board of Commissioners, and that the bridge crosses the main line of the Monon Railroad near Putnamville in that county.

2. That the bottom of the bridge is only 15.85 feet above the top of the rails in the track, and that the usual required height of such a bridge, so as to clear a brakeman standing on a moving train, is not less than 22 feet.

3. That the lines of vision from under the bridge are cut off by curves in the track so that to the south one can see only 375 feet, and to the north only 305 feet.

4. That ordinary engines and freight cars will barely pass under the bridge as now constructed, there being not to exceed 18 inches between the top of the running board and the bottom of the bridge.

5. That the railway at this point has a grade of about 40 feet per mile going south, and that trains going in that direction and around these curves go at a very high speed.

6. That the bridge can be elevated to the required height and reached from the highway by constructing approaches on a grade of not to exceed 8 per cent.

7. That about twenty persons have been killed or injured at this bridge since it has been maintained by the company, solely on

account of the fact that it is too low to permit persons on the top of moving trains to pass under the bridge with safety.

Upon these findings the Commission recommended that the Monon Company discontinue at once the use of this dangerous and insufficient structure, and suggested that it might be removed by elevation to the required height and the construction of approaches necessary to reach the same when elevated.

Three verified copies of this report were made; one submitted to the Governor of Indiana; one to the general manager of the Monon Railroad, and one to be placed on file with the Commission.

DELAY IN BILLING.

No. 91.—*J. R. Stafford v. G. R. & I. Ry. Co.*

Complainant alleged that his elevator was situated at Stone, where there was no agent, and that billing was done by the agent at Ridgeville, and that the agent refused to bill until car reached Ridgeville, causing considerable delay in shipments. Taken up with the carrier, investigation made and adjusted. Shipper advised the Commission that business is now conducted in a reasonably satisfactory manner, and the case is closed.

DELAY IN MOVING COAL CARS.

No. 92.—*W. S. Harman Coal Co. v. Big Four R. R. Company.*

Complaint that coal cars were greatly delayed, that one car had remained in Indianapolis yard for 10 days. On investigation this car was found to be disabled. It was sent to shops and repaired and moved. Two other cars, destined for Marion, were found to have been delayed several days. Matter called to the attention of superintendent of Big Four, and cars put in train and moved the same day. One result of this case was an extensive correspondence, in an effort to make a joint rate on coal by the Southern Indiana and the C., H. & D. to Indianapolis.

EXPORT RATE ON GRAIN AND GRAIN PRODUCTS.

No. 93.—*McConnell & Kennedy v. C. & E. I. R. R. Co.*

Complaint that C. & E. I. would not make export rates on grain and grain products from any of their stations to Atlantic Seaboard. Taken up with traffic manager of C. & E. I., lengthy correspondence, and final interview with the general freight agent of the company, who agreed to take matter up with his connections and put rate in if possible. This is still pending for further investigation.

OVERCHARGE ON SHIPMENT OF BOOKS.

No. 94.—*Austin Thompson v. C., I. & L. Ry. Co.*

August 16, 1906, complainant alleged that he was overcharged on shipment of books from Bloomington to Blankenship. Matter referred to general freight agent of the railroad company; explanation promptly received from him and forwarded to complainant. As the complainant said nothing further, the matter closed.

SHORTAGE OF CARS.

No. 95.—*F. A. Vant v. L. E. & W. R. R. Co.*

Complaint by Vant, elevator man of Talbot, that cars were not furnished him, and that other parties similarly situated secured cars. Investigation made, with the result that superintendent of carrier gave list of cars furnished to Vant and others, and different shippers verified this list by their letters, showing number of cars required and number furnished. This information tended to show that complainant had secured, in comparison with the others, a fair share of cars. Advised superintendent what number of cars would be needed by all these shippers and requested him to furnish them. October 1st letter from complainant that he had secured seven cars, and matter closed.

EMBARGO AT TERRE HAUTE ON COAL CARS.

No. 96.—*Harman Coal Co. et al. v. So. Indiana Ry. and Big Four Railway.*

August 17, 1906, complaint that the Southern Indiana and the Big Four had ceased to interchange business on August 8, at Terre Haute, and that there was 250 or more cars of coal stopped in the yards there. Matter taken up with the officers of these companies by letters and telegrams, and nothing done by them to relieve the embargo. A meeting of the general officers of these companies, with the Commission, at the State House was called for August 20, and the carriers informed that unless they proceeded to do business for the public the Commission was prepared to commence proceedings in court to compel resumption of business. Thereupon, an attempt was made to come to an agreement, which failed, and the following agreement prepared by the Commission was presented to the carriers and duly executed, and the interchange of business at once commenced as required by the Commission. For formal settlement of the controversy between the carriers, see No. 61 of the regular docket. The agreement referred to is as follows:

Whereas, The Southern Indiana Railway and the Cleveland, Cincinnati, Chicago & St. Louis Railway, up to August 8, 1906, freely interchanged all business passing over their lines through Terre Haute, Ind., upon joint tariffs and traffic arrangements theretofore issued by such roads, which tariffs and traffic arrangements are yet in full force and effect, except as herein otherwise mentioned; and

Whereas, On August 8, 1906, on account of disagreements arising between them as to the points where loaded and empty cars should be delivered and the manner of their delivery so as to accomplish interchange of business at such point, the said railway companies discontinued the interchange of business between such lines and since said date have not interchanged any business at such point,

each claiming that the other is at fault, and each now refusing to yield from its position, except as stated herein; and

Whereas, Such carriers' said joint through business consists very largely of bituminous coal, originating on the Southern Indiana Railway and destined to points reached by the Cleveland, Cincinnati, Chicago & St. Louis Railway, and on account of such suspension of traffic, great inconvenience and loss of business has resulted to the coal miners and to consumers of and dealers in coal, who have complained to the Railroad Commission of Indiana requesting it to use its good offices in adjusting such dispute and to bring about a resumption of business; and

Whereas, The said Railroad Commission of Indiana has requested that said railway companies enter into this agreement for the purpose of resuming traffic and adjusting such differences:

Therefore, It Is Now Agreed, between said railway companies that they will at once resume traffic at such point, the same to be conducted in the same manner that it was conducted immediately prior to August 8, 1906, when the present disagreement arose, and each company agrees to at once wire its operating officials to so resume traffic and interchange of all business at such point.

The said railway companies hereby submit the matters in dispute between them concerning such interchange of business to the Railroad Commission of Indiana for its determination under the law. The same to be heard without any other petition or answer than this agreement.

The resumption of traffic under this agreement shall continue until the Railroad Commission of Indiana shall determine such cause.

The fact that said railway companies have so resumed traffic shall not be considered either for or against either of such companies in the consideration and determination of such proceeding by said Commission or upon appeal from its order.

This agreement is executed in triplicate, and one copy

delivered to each company and one copy to the Railroad Commission of Indiana.

In Witness Whereof said parties have hereunto set their hands this 20th day of August, A. D. 1906.

(Signed) SOUTHERN INDIANA RAILWAY
COMPANY,

By W. M. Wells, Gen. Mgr.
CLEVELAND, CINCINNATI, CHI-
CAGO & ST. LOUIS RY. CO.,
By J. Q. Van Winkle, Asst. Gen. Mgr.

EXCESSIVE RATES ON GRAIN PRODUCTS.

No. 97.—*Odon Milling Company v. Southern Indiana Ry. Co.*

Complaint by Odon Milling Company that rates on grain and grain products from Odon to Jasonville were 10 cents per one hundred pounds, while from Terre Haute to some places an equal distance only 6½ cents, and from Terre Haute to Jasonville, 53 miles, only 7½ cents. Matter taken up with the Southern Indiana through W. T. Abbott, attorney, and new tariff promptly issued, making rate 7 instead of 10 cents, and matter closed.

REFUSAL TO INTERCHANGE SWITCHING.

No. 98.—*Kinsey Brothers v. P., Ft. W. & C. Ry. and Big Four.*

Complaint that Big Four refused to interchange switching of grain with P., Ft. W. & C. Railroad at Warsaw. Matter taken up by letter and the Big Four Company claimed the elevator of complainant was located on public team track, a part of their terminals, and they declined to switch. Further correspondence with complainant verified the statement of company, but claimed the switch was probably built primarily to serve the elevator, then afterward converted into team track. Complainant was requested to furnish further information, which has not yet been received. The P., Ft. W. & C. road express willingness to interchange. Later developments show that what is now the elevator was formerly a barn. The Big Four Company refusing to interchange business, and there being no formal complaint, the Commission is without jurisdiction.

MOVEMENT OF INDIANA COAL.

No. 99.—*Coal Operators v. Big Four, E. & T. H. and So. Indiana Railways.*

For several weeks prior to September 15, 1906, reports came to the Commission from mine operators, coal dealers and consumers and railways initiating coal shipments, concerning the movement of coal through Terre Haute and concerning coal rates and routes for shipments. These complaints being so numerous and of such a serious character, the Commission, on the above date, ordered an investigation and sent notice thereof to the railroads, coal operators and coal dealers. The order made by the Commission is as follows:

RAILROAD COMMISSION OF INDIANA.

Union B. Hunt, Chairman; C. V. McAdams, W. J. Wood, Commissioners.
IN THE MATTER OF COMPLAINTS CONCERNING MOVEMENT OF TRAFFIC AND
COAL RATES THROUGH TERRE HAUTE, INDIANA.

September 15, 1906.

Whereas, The Commission has received various complaints concerning the movement of traffic from and through Terre Haute, particularly coal, also concerning rates on coal from mines in western and southern Indiana, therefore,

It is Ordered, That a proceeding of investigation and inquiry, as above entitled, be and the same is hereby instituted, and that the same be assigned for hearing in the City Council Chamber at Terre Haute, Indiana, on Friday, September 21, 1906, at nine o'clock a. m.

It is Further Ordered, That the following railroads appear at such meeting, by their general managers, general freight agents and superintendents in charge of the divisions entering Terre Haute, viz.:

The Evansville & Terre Haute Railroad Company;
The Evansville & Indianapolis Railroad Company;
The Chicago & Eastern Illinois Railroad Company;
The Southern Indiana Railway Company;
The Vandalia Railroad Company;
The Cleveland, Cincinnati, Chicago & St. Louis Railway Company;
The Cincinnati, Hamilton & Dayton Railway Company.

It is Further Ordered, That each railroad company which originates coal on its line shall prepare and file with the Commission, at such hearing, a statement showing, separately for each month, January, 1906, to September 15, 1906, inclusive (excepting April and May and first half of June), the number of cars of coal moved by them into Terre Haute, and the number delivered monthly at such point to each connecting carrier, for forwarding from that point, and that each of the other railroads shall prepare and file with the Commission at such hearing a statement of the

cars of coal received from each of its connections at Terre Haute and forwarded by it during such time, and that each of such carriers shall, by its proper officer, be prepared, at such hearing, to advise the Commission as to its present facilities for furnishing cars and as to its motive power for moving traffic coming to it at such point, and what prospect, if any, there is of increasing such facilities. Also a statement of the train and tonnage movement over their respective lines for the three months last passed, and to what extent, if any, the several lines will sustain an additional train movement, and how, if at all, such additional train movement may be accomplished.

It is Further Ordered, That each coal operator, receiving a copy of this notice, shall prepare and file with the Commission, at such hearing, a statement of the daily capacity of its mine. Also a statement showing the daily output of such mine for the last preceding three months, with a statement of the number of cars of coal consigned by it which were delivered to connecting lines entering Terre Haute. Also a statement of the amount of tons, if any, which each of such mines has been unable to ship on account of shortage in facilities for moving the traffic. Also a statement of the number of employes at such mine and the number of days the mine has been idle since June 15, 1906, on account of shortage in shipping facilities.

It is Further Ordered, That any other person or body interested in such inquiry and investigation may be heard at such time and place in person or by counsel.

A true copy.

CHAS. B. RILEY, Secretary.

On the date fixed for the hearing the Commission convened at the city council chamber at Terre Haute. At the hearing some fifteen coal companies were represented, owning numerous mines located on the E. & T. H., E. & I. and Southern Indiana railways, and employing about three thousand miners. The E. & T. H. and E. & I. railways were represented by J. O. Crockett, superintendent, and D. H. Hillman, general freight agent. The Southern Indiana Railway was represented by F. S. Lewis, superintendent, and J. W. Walsh, vice-president. The C. & E. I. was represented by W. J. Jackson, general superintendent, and E. J. Knickerbocker, coal traffic manager of the Frisco Lines. The Vandalia was represented by Wm. Hodgdon, general freight agent, and W. C. Downing, superintendent. The Big Four was represented by H. F. Houghton, general superintendent, and F. L. Littleton, attorney. The other railroads named in the notice not being interested did not appear.

The hearing continued throughout the day. The coal operators and railway companies responded with the data requested by the

Commission. Representatives of the operators and dealers were examined, also the operating officials and some of the freight agents of the carriers. From the data so filed and the evidence taken, the following facts appear and the following action has been taken by the Commission thereon:

1. That the capacity of the coal mines on the E. & T. H., E. & I. and Southern Indiana Railways, when considered in connection with mines on other lines in Indiana, is so great that the markets reached by present railway facilities are not sufficient to consume the output, if operated on full time.

2. That the railroad facilities at Terre Haute are not sufficient to expeditiously handle the coal coming there for which markets have been found, as hereinafter noted.

3. It appeared that the C. & E. I. Railroad during the preceding year had added to its equipment 4,263 coal cars, or an increase of 58 per cent., and during the same time had added to its motive power 96 engines which increased its tractive power 98 per cent. On account of these additions to equipment this company has promptly handled all business tendered it at Terre Haute.

4. It appeared that the Vandalia Company during the year added 77 coal cars to its equipment, but had reduced its engine equipment 4 numbers, yet it appeared that this company had been able to promptly handle all coal tendered it at Terre Haute, notwithstanding the other heavy traffic being moved by that line.

5. It appeared that during the preceding year the E. & T. H. had added 1,500 coal cars to its equipment, being an increase of over 40 per cent., and that it has been able to serve the mines on its lines with reasonable certainty and dispatch. Such delay as exists is explained by the congestion at Terre Haute and consequent delay in the return of empties. The C. & E. I. coal cars go on this line for loading, which adds to its capacity. The engine capacity of this line appeared to be sufficient.

6. The Southern Indiana has 4,550 coal cars, and during the last year has not added to its equipment or its motive power. It appeared that the elapsed time, for the return of coal cars to the mines in this locality, ranges from 13 to 15 days, depending on destination and location of mines. The engine equipment of this line is sufficient to handle its coal traffic. If cars were handled

promptly the coal car equipment would be sufficient. When congestion exists the supply is not always adequate for prompt shipment.

7. The Big Four, during the year, added 1,609 coal cars to its equipment, being an increase of 40 per cent., but that fact does not aid in this difficulty, as it furnishes no coal cars for coal from the E. & T. H. and Southern Indiana, but uses them on its own lines. There were 80 numbers added to the engine equipment of this system for the year, being an increase in the number of passenger engines of $14\frac{1}{2}$ per cent., of freight engines 19 per cent. and of switching engines 10 per cent. However, none of this new equipment can be used on the St. Louis division on account of weight and on account of defective or light bridges, and for other reasons incident to rebuilding parts of that line. When the new engines come to the system they go to other divisions, and old and lighter engines are transferred to the St. Louis division. The traffic of this system increased during the year about 15 per cent. This company is double tracking its St. Louis division, and on account of work and construction trains traffic is somewhat delayed. During July this Company took from the Southern Indiana at Terre Haute 2,017 cars of coal, and from the E. & T. H. 270 cars. During the first half of September it took from these two lines only 433 cars. During August there was an embargo between these two companies at Terre Haute, which continued for 12 days, arising out of a dispute as to the point where business should be interchanged. On account of want of motive power and track facilities, the Big Four has not been able to move all the traffic coming to it at Terre Haute in the order in which the same has been offered. That Company, at the request of the Commission, has transferred some additional motive power to this division and has in that way materially improved the service. The company has also diverted some through business from its Cairo division via Danville, Ill., and the P. & E. to avoid the congestion on this division, which would naturally receive the business at Paris, Ill. Complete relief can not be furnished this territory until there are more railroads constructed, or until those now located have their lines double tracked and improved and engine capacity sufficient to care for the business.

8. The magnitude of the coal industry in this locality is shown by the following figures taken from the annual reports of these companies:

So. Ind.coal tonnage 1,853,656 tons, or 80.8 % total tonnage of line
 E. & T. H...coal tonnage 1,367,646 tons, or 53.98% total tonnage of line
 Vandalia ...coal tonnage 2,078,834 tons, or 51.66% total tonnage of line
 Big Fourcoal tonnage 1,159,330 tons, or 26.01% total tonnage of line

9. In the further effort to relieve the situation a member of the Commission visited the general offices of the Southern Indiana at Chicago, and succeeded in getting that company to restore its rates and route via Westport and the Big Four to points in the Gas Belt. The rate was put in to the following towns via Westport: Anderson, Muncie, Alexandria, Carthage, Rushville, Yorktown and Knightstown, and since this arrangement was made from 10 to 20 cars per day have moved over that line, thereby avoiding the congestion at Terre Haute and Indianapolis, and are promptly delivered.

10. About the time this hearing was called the Southern Indiana published the coal rates via Humrick, Ill., and the Clover Leaf route to certain territory served by that line, and it is expected that this new outlet when it gets fully established will further relieve the situation.

11. Negotiations were had looking to a new route via the Central Indiana for an outlet for part of this traffic, but on account of there being three lines interested in the business rates have not yet been established which will move the traffic in that direction.

12. Pending this investigation, it was claimed by some of the coal operators that the Big Four favored certain consignees in the coal which it would receive from the Southern Indiana at Terre Haute. The Commission at once took this subject up with that company, and, although it denied any such preference, it at once issued orders to its operating officers at Terre Haute to take coal from the Southern Indiana in the order in which it was delivered, regardless of consignees. The following correspondence indicates what was done in this particular:

Mr. H. F. Houghton, Gen. Supt., C., C., C. & St. L. Ry., Indianapolis, Ind.:

Dear Sir—In connection with the current reports and suggestions concerning the movement of coal over your line through Terre Haute,

complaints have come to this office charging that when you have been unable to handle all the coal tendered you by the Southern Indiana at that point you have daily taken at least six cars from that company, destined to Indianapolis and consigned to the Indianapolis Water Company, or other consignees, for its use, and that the Southern Indiana has orders from you that you will daily accept so much and that the Southern Indiana gives orders to mines supplying this coal to bill accordingly. It has also been stated that to do this you switch out of the Southern Indiana deliveries, on the connection at Preston, cars so destined to the water company. It is also asserted by some of the parties interested that you thus favor the water company at the request of this Commission or with its knowledge and consent.

Now, if you please, as to this last assertion, although it is not pleasant to the members of the Commission to have them made, they give it no concern, knowing that they are wholly and entirely unfounded, for the fact is, as you well know, the Commission has never at any time made any such request, nor has it ever been petitioned so to do by any one, nor had the subject even been considered by the Commission until these complaints were presented.

However, the matter being one of importance and about which there should be no misunderstanding, we now make to you this suggestion, regardless of whether you have heretofore been unduly favoring the water company or not (a question we are not now considering or determining).

The law (Par. b, Sec. 14, Acts 1905, p. 97) provides as follows: "Every railroad company which shall fail or refuse, under such regulations as may be prescribed by the Commission, to receive and transport without unreasonable delay or discrimination the passengers, tonnage and cars, loaded or empty, of any connecting line of railroad company, * * * shall be deemed guilty of unjust discrimination: Provided, That perishable freights of all kinds and live stock shall have precedence of shipment."

Under this statute it is your duty to carry for all alike, excepting live stock and perishable property, which must move first. What rights the company would have or what its duties would be, in case of a coal famine, toward supplying a public service corporation with fuel, are not now presented for consideration and are not now determined, as no such condition exists or is now threatened. It seems, therefore, that you should take coal from the connection in the order in which it is delivered to you, leaving the responsibility for initiating the shipments to the Southern Indiana, where it belongs.

Therefore, we request that you will inform the Southern Indiana Company that you will hereafter handle the traffic as here indicated and instruct your yardmaster at Terre Haute accordingly. If you have not heretofore given any contrary instructions, we suggest, nevertheless, that you now instruct as here requested.

We would like an early response to this request.

Mr. Chas. B. Riley, Secy., Railroad Commission of Indiana, City:

Dear Sir—In reply to your favor of this date relative to the movement of coal through Terre Haute.

The complaints charging that when we have been unable to handle all the coal tendered us by the Southern Indiana, at Terre Haute, that we

have taken daily at least six cars from that company for the Indianapolis Water Company, or for its use, and that the Southern Indiana has orders from us that we will daily accept so much, are without foundation in fact. We have given the Southern Indiana no orders or instructions whatever relative to the delivery of coal for any certain consignees. Neither is there any truth in statements that we have been requested by your Commission to favor the water company, or any other company; no such request has been received.

We are perfectly willing to comply with your suggestion, and will accordingly notify the Southern Indiana that we are ready to take coal from the connection in the order in which it is delivered to us, and we will instruct our yardmaster at Terre Haute accordingly; this being nothing more nor less than our practice heretofore.

Yours very truly,

(Signed) H. F. HOUGHTON,
Gen. Supt.

13. It appeared from the reports of the mine operators that for the three months preceding the hearing they could have put out about 175,000 tons of coal in addition to their output if they had have had the requisite shipping facilities.

14. During the summer, after the close of the coal strike, mine operators in this territory obtained contracts from large consumers in Indianapolis and the Gas Belt territory. These contracts were based on a 60-cent rate via Vandalia to Indianapolis, and a 50-cent rate via the Big Four to Indianapolis, and on Big Four delivered to many towns and cities in the Gas Belt. On account of the Big Four being unable to handle the traffic as offered many shipments on these contracts to Indianapolis have been made via the Vandalia at the higher rate, resulting in a loss to the operator of from 10 to 17 cents per ton, depending on terminal charges to points of delivery on the Big Four. In some instances contracts have been canceled for failure to deliver the coal as needed.

15. Since the hearing the Commission has kept in daily touch with the situation and has constantly urged that the utmost effort be put forward to move the traffic, and the Commission expects to continue this effort until the situation is permanently relieved.

16. The powers and authority of the Commission in cases of this kind, as now fixed by the law, are inadequate. All the Commission can do is to advise, urge and insist and make public the situation. The law should be amended so that in situations of this kind the Commission would have power to do whatever may be necessary to correct the condition.

RATES ON SCRAP IRON.

No. 100.—*Simon Cook & Co. v. C. & E. I., Wabash and C., I. & L. Railways.*

September 22 received letter from complainant asking that the Commission secure a reduction of rates on scrap iron from Veedersburg, Attica and Rensselaer, Ind., to Ft. Wayne. Rate complained of \$1.40 per ton. The matter was taken up with the railroads, and they refused to make any changes in rates, and case closed for want of authority to proceed.

RATES ON ICE.

No. 101.—*The C. R. Higgins Artificial Ice Company v. L. S. & M. S. R. R.*

September 22 complainant asked the Commission to secure a reduction in rates on ice from Pleasant Lake, Ind., to Ft. Wayne, Ind., existing rate 60 cents per ton. Matter taken up with the company, and on September 28 the rate was reduced from 60 cents per ton to 50 cents per ton, a saving of 10 cents per ton to complainant, who expressed satisfaction over the adjustment.

USE OF HOME SIGNALS.

No. 102.—*Railroad Commission of Indiana v. L. S. & M. S. R. R.*

On September 25 information came to the Commission that home signals of interlocking plants were being used as a block and order board, and that such practices are dangerous. Matter taken up by letter with the railroad company, in which they claim that the use is justified and not dangerous. Expert opinions on the subject were asked for by the Commission, and the matter is still under consideration.

SWITCHING LUMBER AT BRAZIL.

No. 103.—*Halsted Lumber Company v. Vandalia R. R. Company.*

Complaint was made that the Vandalia Railroad Company refused to switch cars of lumber from the C. & E. I. tracks to the tracks of the Vandalia adjacent to the lumber yards of the com-

plainant. Matter taken up with the superintendent of the road, who declined to switch the cars and claimed that the tracks to which switching was desired were known as the public team tracks, and that they were not accustomed to switching cars under such conditions. On further investigation it was found that some exceptions to the general rule had been practiced by the Vandalia railroad by switching other commodities.

COAL RATES TO CYCLONE, INDIANA.

No. 104.—*Frankfort Ice and Coal Company v. Monon and Vandalia Railroad Companies.*

On September 28 complainant advised that the rates on coal to Cyclone, a station on the Monon, nine miles from Frankfort, from Jessup, Ind., was \$1.10 per ton, 60 cents of which was the rate of the Vandalia, and 50 cents the rate of the Monon. The matter was taken up by letter with each of the roads, and is yet under investigation.

ANTHRACITE COAL RATES TO SHELBYVILLE, INDIANA.

No. 105.—*Hilligoss & Son v. Big Four and P., C., C. & St. L. Ry.*

September 27 complainants claimed that they were charged \$2 per ton freight on anthracite coal from eastern mines to Shelbyville; that the rate on the same kind of shipments to Indianapolis was \$1.60 per ton. Matter taken up with the railroads, and on October 4 the P., C., C. & St. L. advised that they had reduced the rate to \$1.60 per ton, thus saving 40 cents per ton to the consumers at Shelbyville. The matter is still unsettled with the Big Four. There are about 6,000 tons of this coal used per annum in Shelbyville, which would be affected by this rate; therefore, a saving of about \$2,400 to the consumers at that point results from this change in rates.

SHORTAGE IN GRAIN CARS.

No. 106.—*Finch & McComb v. The Wabash Railroad.*

October 5, 1906, complained by letter that they had been unable to receive cars for the shipment of grain from Marshfield, Ind. They had been without cars for two or three weeks, with many contracts to fill and the grain in the elevator at Marshfield. Matter taken up with the superintendent of the railroad, who advised that he would send cars immediately, which was done, and the complainants were enabled to move their grain, and have notified the Commission that they have been fully supplied with all cars required since the Commission moved in the matter.

RATES ON GRAVEL.

No. 107.—*Jno. D. Moore & Co. v. The So. Indiana R. R.*

October 13, 1906, received letter from complainant that the Southern Indiana Railway charged 40 cents per ton for hauling gravel from Elnora to Union Switch, a distance of about 6 miles, while the E. & T. H. hauled it from Elliston to Elnora, and delivered to the Southern Indiana, a distance of 14 miles, for 25 cents per cubic yard, which is about 55 cents per ton for a 20-mile haul. Complainants further state that they will require about 500 cars for the purpose of building a gravel road if they can have the same delivered at a rate that will enable them to compete with crushed stone. Matter taken up with the Southern Indiana Railroad, but it declined to make any concessions and case closes for want of petition.

POULTRY SHIPMENTS.

No. 108.—*J. T. Nixon v. The Wabash R. R. Co.*

October 15, 1906, received letter from complainant's attorney that the Wabash Railroad refused to accept shipments of poultry at Attica in less than carload lots. Matter taken up by letter with the freight department, and is now under investigation.

COAL RATES TO POINTS ON BIG FOUR WEST OF INDIANAPOLIS.

No. 109.—*Wm. S. Harman Coal Co. v. The E. & T. H. and Big Four Railroads.*

October 18, 1906, complainant states that rates on coal from E. & T. H. points to stations on the St. Louis division of the Big Four west of Indianapolis is 60 cents per ton, while the rate from Southern Indiana points to same Big Four points is 50 cents per ton, and from same points on the E. & T. H. and corresponding points on the Southern Indiana by the Big Four to Indianapolis is 50 cents, and asks that a reduction be made to points west of Indianapolis to correspond with Indianapolis rates. Matter taken up with the E. & T. H. road by letter, and advised that rates would be put in as requested, and complainant was notified accordingly.

EXPORT RATES ON GRAIN.

No. 110.—*Goodrich Bros. Hay and Grain Co. v. Chicago, Cincinnati & Louisville Railway Company.*

The complainants complained of the fact that they have no export rates on grain on this railroad. The complaint in this case being similar to that in cause No. 86 on this docket, the same is being considered in connection with that cause, and is now under investigation.

RATES ON STRAW AND SWITCHING CHARGES.

No. 111.—*Terre Haute Paper Company v. Evansville & Terre Haute R. R.*

The complainant, who has a paper mill at Terre Haute, complains of alleged discrimination in rates on straw to Terre Haute, also complains concerning switching charges on carload shipments coming into Terre Haute on other railroads.

The Commission referred the communication received, which was a very lengthy one, to the general freight agent of this railroad, and obtained his answer to the charges. This answer was referred to the complainant and the complainant advised that the

Commission was without authority to determine anything concerning claims against this company for past service in switching charges, and that the Commission had ample authority to regulate switching charges and freight rates, but could do so only upon a verified petition, and having received no such petition this matter, for the present, is closed.

COAL RATES.

No. 112.—*C. C. Winkler v. The Evansville & Terre Haute R. R.*

Complaint that this company charged more for hauling coal to Emmison than it charged for hauling coal to Oaktown. The matter was investigated and the fact learned that the rate to Emmison and Oaktown from mines on this railroad in Sullivan county were the same, but the further fact was determined that the rates on coal from a mine recently opened at Carlisle were greater to Emmison than to Oaktown, and the company, at the request of the Commission, put in the same rate to Emmison as that in effect to Oaktown from Carlisle, and the complainant was notified accordingly.

RATES ON GRAIN.

No. 113.—*G. B. Stafford v. G. R. & I. R. R.*

Complainant charges that he is compelled to pay 7 cents per hundred on grain from Stone to Cincinnati, while the rate on like grain from Winchester and other nearby points is only 6 cents. This complaint was presented to the general freight agent of the company, with the request that after passing Winchester going north that the rates should be increased in fractions of a cent for the various stations instead of making the difference as it now is, the points being so close together and in direct competition, but the general freight agent refused to make this concession and the complainant was notified accordingly, and having filed no petition in the matter the Commission is without jurisdiction, as the rate is an interstate one.

PASSENGER RATES.

No. 114.—*W. W. Risher v. The E. & I. R. R.*

The complainant, who has a coal mine at Saline City on this railroad, complained to the Commission that there are no coal miners in that city, or at least not sufficient to operate the mine, while at Clay City, on the same line south, there resides quite a number of coal miners, who are out of employment, but who can not afford to pay the regular passenger fares on this railroad to go back and forth daily to these mines to work, as they have heretofore done. The matter is now under investigation with the officers of this railway company, who have been advised that, in the judgment of the Commission, the company, if it so desires, may publish a special passenger rate at a reduced price between these two points for a specified number of trips, to be used within a specified time, open to everyone who may desire to use the same, and that so to do will not be a violation of the law.

No. 115.—ADJUSTMENT OF RATES ON CLASSIFIED
TRAFFIC IN INDIANA.

Growing out of the hearing in the case of Schnull & Co. v. The Vandalia Railroad, being No. 6 on the formal docket, and the insistence of the Indianapolis Freight Bureau, has come an agitation for a readjustment of the rates on classified traffic on all the roads in this State. A preliminary meeting was held at the Commission's rooms between representatives of the railroads and representatives of the Indianapolis Freight Bureau, and at this meeting it was agreed that further consideration of the Schnull case should be postponed until the railroads and shipping interests of the State could make an effort to agree upon the readjustment of these rates, with the promise on the part of the companies that there would be a material reduction in the existing rates, and that if these parties should so agree no rates should be put into effect which were not satisfactory to the Commission if they were put into effect as a result of these negotiations.

A meeting at the Commission's rooms was arranged for October 29, for the purpose of a preliminary consideration of this subject. The Commission invited to this conference representa-

tives of the commercial interests in the following cities in this State: Ft. Wayne, Terre Haute, Evansville, Vincennes, Indianapolis, Richmond, Elwood, Kokomo, Anderson, Lafayette, Logansport, South Bend, Muncie, Connersville, Peru and Jeffersonville. At this meeting there were present the representatives of the various commercial interests in the State, also George Ingalls, general freight agent of the Big Four lines, representing all the New York Central lines; Wm. Hodgdon, general freight agent of the Vandalia Railroad; H. C. Shepard and Guy McCabe, representing the Pennsylvania lines; O. C. Carter, general freight agent of the Monon Railroad; S. B. Sweet, representing the Lake Erie & Western Railroad, and James Webster, representing the Nickel Plate Railroad. These gentlemen constituted a committee appointed by Indiana railroads represented in the Central Freight Association territory, with full power and authority to speak for all the railroads in this State.

At this conference, after considerable discussion, the representatives of the railroads presented a schedule of proposed maximum rates for classified traffic. After considerable discussion of the proposed schedule, it proved to be unsatisfactory to the interests represented, and at the suggestion of the Commission the shippers present appointed a committee to formulate a counter proposition. This committee consists of George C. Griffin, of Schnull & Co., Indianapolis; W. C. Rastetter, of the Commercial Club of Ft. Wayne; B. B. Johnson, president of the Commercial Club of Richmond, Ind., and J. Keevey, commissioner of the Indianapolis Freight Bureau, as chairman. This committee has formulated a counter proposition, which has been forwarded to Mr. Hodgdon, as chairman of the committee representing the railroads. November 19 has been fixed for a meeting of this committee and the committee representing the railroads with the Commission, for the purpose of considering these schedules. The schedule presented by the committee representing the railroads and the schedule presented by the committee representing the shippers are as follows:

CARRIERS' PROPOSAL.

Proposed Indiana Scale, to be used as a basis for revising class rates.

OFFICIAL CLASSIFICATION.

(Rates in Cents per 100 lbs.)

<i>Miles.</i>	<i>Classes.</i>					
	1	2	3	4	5	6
5	10	9	8	6	4	3
10	10.5	9.5	8.5	6.5	4.5	3
15	11	10	9	7	5	3.5
20	11.5	10.5	9.5	7.5	5	4
25	12	11	10	7.5	5.5	4.5
30	12.5	11.5	10.5	8	6	5
35	13.5	12	11	8	6.5	5.5
40	14	12.5	11.5	8.5	7	6
45	14.5	13	12	9	7.5	6
50	15	13.5	12.5	9.5	7.5	6.5
55	15.5	14	13	10	7.5	6.5
60	16	14.5	13.5	10	7.5	6.5
65	16.5	15	14	10.5	7.5	7
70	17	15.5	14.5	10.5	8	7
75	18	16	15	10.5	8	7
80	19.5	18.5	17	11	8.5	7.5
85	21	19	17	11.5	8.5	7.5
90	22	20	17	12	9	8
95	23	22	18	12	9	8
100	24	22	19	12.5	9	8
110	24.5	22	19.5	12.5	9	8
120	25	22	19.5	12.5	9.5	8
130	26	23	19.5	13	10	8.5
140	27.5	24	20	13	10	8.5
150	28.5	25	20	13.5	10.5	8.5
160	30	26	21	13.5	11	9
170	31	26.5	21.5	14	11	9
180	31.5	27	21.5	14	11.5	9
190	32	28	22	14.5	11.5	9.5
200	33	28.5	22	15	12	9.5
210	34	29.5	22.5	15	12.5	10
220	35	30	22.5	15	13	10
230	35.5	30.5	23	15.5	13	10.5
240	36	31	23	16	13	10.5
250	37	32	23.5	16	13.5	10.5
275	38.5	33	24.5	16.5	14	11
300	40	34	25	17	14.5	11.5
325	41	35	26	18	15	12
350	42	36	27	18.5	15.5	13

SHIPPERS' PROPOSAL.

Proposed mileage scale for maximum class rates in Indiana, submitted by committee representing shipping interests:

<i>Classes.</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<i>Percentage of first class hauling charge.</i>	<i>80%</i>	<i>70%</i>	<i>50%</i>	<i>40%</i>	<i>33½%</i>	
5 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	2	1.6	1.4	1	.8	.67
Total rate	5	4.5	4.5	3	3	2
10 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	2.5	2	1.75	1.25	1	.833
Total rate	5.5	5	4.5	3	3	2.5
15 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	3	2.4	2.1	1.5	1.2	1
Total rate	6	5.5	5	3.5	3	2.5
20 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	3.5	2.8	2.45	1.75	1.4	1.166
Total rate	6.5	6	5.5	3.5	3.5	2.5
25 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	4	3.2	2.8	2	1.6	1.33
Total rate	7	6	6	4	3.5	3
30 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	4.5	3.6	3.15	2.25	1.8	1.5
Total rate	7.5	6.5	6	4	4	3
35 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	5	4	3.5	2.5	2	1.66
Total rate	8	7	6.5	4.5	4	3
40 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	5.5	4.5	3.85	2.75	2.2	1.833
Total rate	8.5	7.5	7	4.5	4	3.5
45 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	6	4.8	4.2	3	2.4	2
Total rate	9	8	7	5	4.5	3.5

<i>Classes.</i> Percentage of first class hauling charge. ..	1	2	3	4	5	6
	80%	70%	50%	40%	33 $\frac{1}{3}$ %	
50 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	6.5	5.2	4.55	3.25	2.6	2.166
Total rate	9.5	8	7.5	5	4.5	3.5
55 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	7	5.6	4.9	3.5	2.8	2.33
Total rate	10	8.5	8	5.5	5	4
60 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	7.5	6	5.25	3.75	3	2.5
Total rate	10.5	9	8	5.5	5	4
65 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	8	6.4	5.6	4	3.2	2.66
Total rate	11	9.5	8.5	6	5	4
70 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	8.5	6.8	5.95	4.25	3.4	2.833
Total rate	11.5	10	9	6	5.5	4.5
75 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	9	7.2	6.3	4.5	3.6	3
Total rate	12	10	9.5	6.5	5.5	4.5
80 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	9.5	7.6	6.65	4.75	3.8	3.166
Total rate	12.5	10.5	9.5	6.5	6	4.5
85 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	10	8	7	5	4	3.333
Total rate	13	11	10	7	6	5
90 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	10.5	8.4	7.35	5.25	4.2	3.5
Total rate	13.5	11.5	10.5	7	6	5
95 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	11	8.8	7.7	5.5	4.4	3.6
Total rate	14	12	10.5	7.5	6	5.1

<i>Classes.</i>		1	2	3	4	5	6
<i>Percentage of first class hauling charge.</i>			80%	70%	50%	40%	33⅓%
100 miles—							
Terminal charge	3	3	3	2	2	1.5	
Hauling charge	11.5	9.2	8.05	5.75	4.6	3.833	
Total rate	14.5	12	11	7.5	6.5	5.5	
105 miles—							
Terminal charge	3	3	3	2	2	1.5	
Hauling charge	12	9.6	8.4	6	4.8	4	
Total rate	15	12.5	11.5	8	7	5.5	
110 miles—							
Terminal charge	3	3	3	2	2	1.5	
Hauling charge	12.5	10	8.75	6.2	5	4.166	
Total rate	15.5	13	11.5	8	7	5.5	
115 miles—							
Terminal charge	3	3	3	2	2	1.5	
Hauling charge	13	10.4	9.1	6.5	5.2	4.33	
Total rate	16	13.5	12	8.5	7	6	
120 miles—							
Terminal charge	3	3	3	2	2	1.5	
Hauling charge	13.5	10.8	9.45	6.75	5.4	4.5	
Total rate	16.5	14	12.5	8.5	7.5	6	
125 miles—							
Terminal charge	3	3	3	2	2	1.5	
Hauling charge	14	11.2	9.8	7	5.6	4.66	
Total rate	17	14	13	9	7.5	6	
130 miles—							
Terminal charge	3	3	3	2	2	1.5	
Hauling charge	14.5	11.6	10.15	7.25	5.8	4.833	
Total rate	17.5	14.5	13	9	8	6.5	
135 miles—							
Terminal charge	3	3	3	2	2	1.5	
Hauling charge	15	12	10.5	7.5	6	5	
Total rate	18	15	14.5	9.5	8	6.5	
140 miles—							
Terminal charge	3	3	3	2	2	1.5	
Hauling charge	15.5	12.4	10.85	7.75	6.2	5.166	
Total rate	18.5	15.5	14	9.5	8	6.5	
145 miles—							
Terminal charge	3	3	3	2	2	1.5	
Hauling charge	16	12.8	11.2	8	6.4	5.33	
Total rate	19	16	14	10	8.5	7	

<i>Classes.</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<i>Percentage of first class hauling charge. ..</i>	<i>80%</i>	<i>70%</i>	<i>50%</i>	<i>40%</i>	<i>33½%</i>	
150 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	16.5	13.2	11.55	8.25	6.6	5.5
Total rate	19.5	16	14.5	10	8.5	7
160 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	17	13.6	11.9	8.5	6.8	5.66
Total rate	20	16.5	15	10.5	9	7
170 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	17.5	14	12.25	8.75	7	5.833
Total rate	20.5	17	15	10.5	9	7.5
180 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	18	14.4	12.6	9	7.2	6
Total rate	21	17.5	15.5	11	9	7.5
190 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	18.5	14.8	12.95	9.25	7.4	6.133
Total rate	21.5	18	16	11	9.5	7.5
200 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	19	15.2	13.3	9.5	7.6	6.3
Total rate	22	18	16.5	11.5	9.5	8
210 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	19.5	15.6	13.65	9.75	7.8	6.5
Total rate	22.5	18.5	16.5	11.5	10	8
220 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	20	16	14	10	8	6.66
Total rate	23	19	17	12	10	8
230 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	20.5	16.4	14.35	10.25	8.2	6.83
Total rate	23.5	19.5	17.5	12	10	8.5
240 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	21	16.8	14.7	10.5	8.4	7
Total rate	24	20	17.5	12.5	10.5	8.5

<i>Classes.</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<i>Percentage of first class hauling charge. . .</i>	<i>80%</i>	<i>70%</i>	<i>50%</i>	<i>40%</i>	<i>33½%</i>	
250 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	21.5	17.2	15.05	10.75	8.6	7.166
Total rate	24.5	20	18	12.5	10.5	8.5
260 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	22	17.6	15.4	11	8.8	7.33
Total rate	25	20.5	18.5	13	11	9
270 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	22.5	18	15.75	11.25	9	7.5
Total rate	25.5	21	18.5	13	11	9
280 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	23	18.4	16.1	11.5	9.2	7.66
Total rate	26	21.5	19	13.5	11	9
290 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	23.5	18.8	16.45	11.75	9.4	7.83
Total rate	26.5	22	19.5	13.5	11.5	9.5
300 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	24	19.2	16.8	12	9.6	8
Total rate	27	22	20	14	11.5	9.5
310 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	24.5	19.6	17.15	12.25	9.8	8.16
Total rate	27.5	22.5	20	14	12	9.5
320 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	25	20	17.5	12.5	10	8.33
Total rate	28	23	20.5	14.5	12	10
330 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	25.5	20.4	17.85	12.75	10.2	8.5
Total rate	28.5	23.5	21	14.5	12	10
340 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	26	20.8	18.2	13	10.4	8.66
Total rate	29	24	21	15	12.5	10

<i>Classes.</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<i>Percentage of first class hauling charge. ..</i>	<i>80%</i>	<i>70%</i>	<i>50%</i>	<i>40%</i>	<i>35 1/8%</i>	
350 miles—						
Terminal charge	3	3	3	2	2	1.5
Hauling charge	26.5	21.2	18.55	13.25	10.6	8.83
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
Total rate	29.5	24	21.5	15	12.5	10.5

Note—At the conference nothing was accomplished. The views of the parties being so divergent, further consideration was deemed useless.

APPENDIX III.

Reports of Railways.

TABLE No. 1—REPORTS OF RAILROADS.
MILEAGE OF ROADS OWNED AND OPERATED.

NAME OF ROAD.	Indiana Lines Owned.				Indiana Lines Controlled Through Stock		Indiana Lines, Leased and Operated under Trackage or Other Agreements.				Total Miles Main Line Operated in Indiana.	Total Miles Main Line Operated.	New Lines Built During Year.
	Miles Main Line	Miles Second Third Fourth Track	Miles Branches and Spurs	Miles Yard Tracks and Sidings	Miles Main Track	Second Main Track	Yard Tracks and Bidding						
Baltimore & Ohio Railroad Co.	189.22	15.39	71.17	124.87				387.26	387.26	387.26	1,268.18		
Baltimore & Ohio Northwestern Railroad Co.	146.48	65.79		80.89							127.04		
Baltimore & Ohio & Chicago Railroad Co.	37.54			20.88				9.50			291.61		
Central Indiana Railway Co.	221.16			27.26				37.61			269.86		
Chicago & Erie Railroad Co.	160.17	2.25		85.94				6.10			947.67		
Chicago & Eastern Illinois Railroad Co.	174.46	34.15	74.30	130.24							43.00		
Chicago, Indiana & Eastern Railroad Co.	43.00			12.35							190.44		
Chicago, Indiana & Southern Railroad Co.	182.52	4.94	17.62	50.94				6.00			568.88		111.53
Chicago, Indianapolis & Louisville Railway Co.	460.80			195.91				50.87			591.45		
Chicago, Lake Shore & Eastern Railway Co.	8.28	7.74	34.93	23.99				52.50			499.11		12.98
Chicago, St. Louis & New Orleans Railroad Co.	4.94			12.05							28.50		
Cincinnati, Bluffton & Chicago Railroad Co.	27.50		1.00	2.45							174.51		
Cincinnati, Findlay & Ft. Wayne Railway Co.	17.51			1.05							1,039.24		
Cincinnati, Hamilton & Dayton Railway Co.													
Cincinnati, Indianapolis & Western Railroad Co.	155.07			31.91							767.67		
Cincinnati, Richmond & Ft. Wayne Railroad Co.	85.83			16.63							45.50		
Cleveland, Cincinnati, Chicago & St. Louis Railway Co.	510.32	46.70	71.61	323.18				22.67			1,983.42		
Elgin, Joliet & Eastern Railway Co.	25.91	5.00	19.59	13.92				73.40			235.18		.04
Evansville Belt	4.45			6.63							149.45		
Evansville & Indianapolis Railroad Co.	134.15			28.19				15.30			164.46		
Evansville & Terre Haute Railroad Co.	130.78			97.56				4.45			581.79		
Grand Rapids & Indiana Railway Co.	53.15		51.45	12.65				93.02			335.75		
Grand Trunk Western Railroad Co.	80.67	72.83		33.37				4.94			82.83		
Illinois Central Railroad Co.	31.33		14.55	10.00							4,459.14		
Indianapolis Union Railway Co.	3.49	2.30		3.72							12.64		
Lake Erie & Western Railroad Co.	421.71		24.13	150.45				10.95			456.79		
Lake Erie & Western Railroad Co.*	101.92	163.39	65.96	66.65				53.31			258.49		
Lake Shore & Michigan Southern Railway Co.	28.33	2.42		27.51				9.56			57.89		
Louisville & Nashville Railroad Co.	7.70			1.62							7.70		
Louisville, New Albany & Corydon Railroad Co.		42.50		40.15				20.23			1,745.32		
Michigan Central Railroad	43.00												

New York, Chicago & St. Louis Railroad Co.....	151.02	3.21	41.01	.....	.....	.....	.....	154.23	549.62	.11
Peoria & Eastern Railroad Co.....	156.92	.....	56.56	.....	.....	.....	.....	156.92	350.41	.....
Pere Marquette Railroad Co.....	.....	.....	.....	.....	.....	.....	.....	82.13	2,403.25	.....
Pennsylvania Company.....	.....	.....	.....	.....	.....	.....	.....	152.97	1,408.44	.....
Pittsburg, Cincinnati, Chicago & St. Louis Railway Co.....	528.96	113.95	326.20	.....	.....	.....	.....	698.15	1,427.17	.....
Pittsburg, Ft. Wayne & Chicago Railway Co.....	152.97	164.21	98.11	.....	.....	.....	.....	55.24	.....	.....
Potter Railroad Co.....	118.28	4.14	68.74	.....	.....	.....	.....	3.56	7,515.85	.....
Southern Indiana Railway Co.....	149.88	9.37	147.25	.....	.....	.....	.....	4.49	225.22	28.46
Toledo, St. Louis & Western Railway Co.....	171.20	.....	62.85	.....	.....	.....	.....	.....	171.20	450.72
Yandallia Railroad Co.....	449.80	7.73	254.31	.....	.....	.....	.....	22.43	503.74	828.19
Wabash Railroad Co.....	336.90	.....	146.10	.....	.....	.....	.....	5.70	357.40	2,517.20

FOLLOWING ROADS HAVE NOT REPORTED. MILEAGE TAKEN FROM 1906 ASSESSMENT ROLL.

Anderson Belt.....	2.15	.....	.....	.....	.....	.....	.....	.....	.....	.....
Bedford Belt.....	4.19	.....	.....	.....	.....	.....	.....	.....	.....	.....
Bedford Stone.....	3.14	.....	.....	.....	.....	.....	.....	.....	.....	.....
Chicago & Calumet Terminal.....	10.38	.....	.....	.....	.....	.....	.....	.....	.....	.....
Chicago Junction.....	3.75	.....	.....	.....	.....	.....	.....	.....	.....	.....
Chicago & South Bend.....	.90	.....	.....	.....	.....	.....	.....	.....	.....	.....
Chicago & Wabash Valley.....	34.00	.....	.....	.....	.....	.....	.....	.....	.....	.....
East Chicago Belt.....	5.22	.....	.....	.....	.....	.....	.....	.....	.....	.....
Elwood, Anderson & Lapel.....	1.11	.....	.....	.....	.....	.....	.....	.....	.....	.....
Ft. Wayne & Jackson.....	53.29	.....	.....	.....	.....	.....	.....	.....	.....	.....
Henderson Bridge Co.....	9.36	.....	.....	.....	.....	.....	.....	.....	.....	.....
Indianapolis & Louisville.....	54.44	.....	.....	.....	.....	.....	.....	.....	.....	.....
Indianapolis Southern.....	.35	.....	.....	.....	.....	.....	.....	.....	.....	.....
Kentucky & Indiana Bridge Co.....	6.50	.....	.....	.....	.....	.....	.....	.....	.....	.....
Lafayette Union Railway.....	.08	.....	.....	.....	.....	.....	.....	.....	.....	.....
Louisville Bridge Co.....	1.21	.....	.....	.....	.....	.....	.....	.....	.....	.....
Louisville & Jeffersonville Bridge Co.....	6.06	.....	.....	.....	.....	.....	.....	.....	.....	.....
Michigan Air Line.....	3.18	.....	.....	.....	.....	.....	.....	.....	.....	.....
Muncie Belt.....	11.49	.....	.....	.....	.....	.....	.....	.....	.....	.....
N. J., Indiana & Illinois.....	7.26	.....	.....	.....	.....	.....	.....	.....	.....	.....
Peru & Detroit.....	11.70	.....	.....	.....	.....	.....	.....	.....	.....	.....
St. Joseph, South Bend & Southern.....	.46	.....	.....	.....	.....	.....	.....	.....	.....	.....
White River.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Totals.....	5,987.54	722.98	843.51	3,022.39	276.97	11.71	77.16	.....	.....	153.12
Branches and Spurs.....	843.51	.....	.....	.....	.....	.....	.....	.....	.....	.....
Proprietary Co's.....	273.97	11.71	.....	.....	.....	.....	.....	.....	.....	.....
Total Mileage.....	7,110.02	734.69	.....	3,099.55	.....	.....	.....	.....	.....	.....

* Includes 2.56 miles leased to Big Four. x Indianapolis Belt leased.

TABLE No. 2—REPORTS OF RAILROADS.
FINANCIAL STATEMENT—ASSETS.

NAME OF RAILROAD.	Cost of Road.	Cost of Equip-ment.	Cost per Mile of Road and Equip-ment.	Stocks and Bonds Owned.	All Other Assets.	Total Assets.	
Baltimore & Ohio & Southwestern Railroad Co.	\$43,390,601	\$ 5,262,309	\$ 52,833	\$ 250,050	\$ 140,615	\$19,043,577	} Operated by the Baltimore & Ohio Railroad Co.
Baltimore & Ohio & Chicago Railroad Co.	a 18,850,531	71,134	71,134	.....	.....	18,850,531	
Central Indiana Railway Co.	a 1,988,509	16,917	16,917	.....	b 563,417	2,551,927	
Chicago, Cincinnati & Louisville Railway Co.	10,486,886	672,644	43,935	.....	c 1,188,353	12,347,891	
Chicago & Erie Railroad Co.	19,889,019	990,577	83,622	1,506,000	966,811	23,342,410	
Chicago & Eastern Illinois Railroad Co.	33,838,221	16,541,284	61,645	11,053,712	9,063,779	70,497,000	
Chicago, Indiana & Eastern Railway Co.	1,694,921	35,115	40,233	100,000	43,689	1,873,727	
Chicago, Indiana & Southern Railroad Co.	a 34,580,970	.....	101,709	.....	d 2,484,891	37,065,863	
Chicago, Indianapolis & Louisville Railway Co.	a 29,677,418	.....	58,329	4,203,928	2,879,535	36,760,883	
Chicago, Lake Shore & Eastern Railway Co.	2,711,128	1,675,442	21,698	50,000	5,130,714	9,567,286	
Chicago, St. Louis & New Orleans Railroad Co.	a 78,478,032	.....	61,016	.....	2,659,482	81,137,534	Operated by Illinois Central Railroad Co.
Cincinnati, Findlay & Ft. Wayne Railway Co.	1,901,085	170,264	22,663	.....	328,650	2,400,000	Operated by C. H. & D. Railroad Co.
Cincinnati, Hamilton & Dayton Railway Co.	21,837,540	5,336,763	30,893	20,428,967	35,842,673	86,445,948	
Cincinnati, Indianapolis & Western Railway Co.	14,739,657	1,226,564	44,246	.....	3,614	15,969,886	Operated by C. H. & D. Railroad Co.
Cincinnati, Richmond & Ft. Wayne Railroad Co.	3,677,332	2,500	42,873	.....	e 1,535,906	5,215,739	Operated by G. R. & I. Railroad Co.
Cleveland, Cincinnati, Chicago & St. Louis Railway Co.	a 101,994,764	.....	60,527	4,495,538	16,782,994	123,274,200	
Elgin, Joliet & Eastern Railway Co.	13,196,679	1,891,815	66,081	.....	1,638,467	16,726,962	
Evansville & Belt Railway Co.	221,969	.....	49,880	.....	4,798	226,768	
Evansville & Indianapolis Railroad Co.	4,216,988	1,348	31,444	.....	413,920	4,632,238	
Evansville & Terre Haute Railroad Co.	8,823,336	4,876,545	74,858	890,228	961,138	15,551,250	
Grand Rapids & Indiana Railroad Co.	13,232,908	2,295,786	36,790	130,223	1,008,446	16,667,387	
Grand Trunk Western Railway Co.	a 26,240,018	.....	79,296	.....	955,910	27,195,928	

Illinois Central Railroad Co.	a 107,578,380	.....	51,316	60,315,548	106,150,884	274,044,792	Operated by C. I. & L. Railway Co.
Indiana Stone Railroad Co.	268,480	.....	29,110	.....	4,216	272,616	
Indianapolis Union Railroad Co.	1,767,917	100,000	2,008,513	.....	814,027	2,701,944	
Lake Erie & Western Railroad Co.	32,243,425	2,437,007	48,822	163,506	1,693,250	36,537,191	
Lake Shore & Michigan Southern Railroad Co.	66,700,000	17,300,000	95,603	80,172,188	33,703,540	197,875,729	
Louisville & Nashville Railroad Co.	a 160,364,362	.....	41,622	30,160,043	29,551,528	220,065,933	
Louisville, New Albany & Corydon Railroad Co.	a 80,632	.....	7,555	.....	159,576	240,208	
Michigan Central Railroad	a 35,213,257	.....	130,386	7,185,515	24,100,435	66,499,207	
New York, Chicago & St. Louis Railroad Co.	46,143,116	3,720,864	95,657	.....	3,893,914	53,657,877	
Peoria & Eastern Railway Co.	a 21,000,000	.....	70,490	106,500	955,634	24,552,194	
Pere Marquette Railroad Co.	a 75,719,230	8,377,599	35,197	9,317,429	g 10,170,686	86,207,545	
Pennsylvania Company	.....	.....	.....	117,565,279	154,053,681	279,978,562	Operating Company only.
Pittsburgh, Ft. Wayne & Chicago Railway Co.	52,327,255	13,305,991	139,645	817,930	14,821,390	81,272,567	
Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Co.	94,380,586	11,850,957	97,894	5,571,930	23,526,619	135,339,124	
South Chicago & Southern Railroad Co.	843,455	.....	38,373	.....	5,700	853,156	
Southern Railway Co.	277,958,164	22,631,262	65,740	59,238,646	91,421,747	451,305,819	Operated by the Pennsylvania Co.
Southern Indiana Railway Co.	12,817,196	3,593,502	73,578	5,532,348	1,064,534	23,028,103	
Toledo, St. Louis & Western Railroad Co.	a 36,868,861	.....	81,739	729,370	1,045,203	38,694,036	
Vandalia Railway Co.	22,350,779	4,406,380	41,050	51,353	5,563,041	32,378,159	
Wabash Railroad Co.	a 137,224,094	.....	83,555	17,722,108	15,940,500	180,866,705	
Total.....	\$1,683,516,601	\$128,742,518	.....	\$437,870,015	\$602,596,022	\$2,852,746,154	

a Includes cost of equipment.

b Includes deficit of \$533,459.

c Includes deficit \$409,385.

d Includes deficit \$3,508.

e Includes deficit \$1,523,274.

f Includes deficit \$321,389.

g Includes deficit \$1,495,490.

TABLE No. 3.—REPORT OF RAILROADS.
FINANCIAL STATEMENT—LIABILITIES.

NAME OF RAILROAD.	Total Capital Stock.	Stock per Mile.	Total Funded Debt.	Funded Debt per Mile.	Other Adjusted Debts.	Current and Accrued Liabilities.	Balance Profit and Loss.	Total Liabilities.	Debt Per Mile over Cost of Equipment	Excess of Cost of Road and Equipment over Stock and Bonds Per Mile.
Baltimore & Ohio Southwest- ern Railroad Co.....	\$4,000,000	\$4,344	\$45,000,000	\$48,897	.....	\$16,426	\$27,150	\$19,043,377	\$10,378	.....
Baltimore & Ohio & Chicago Railroad Co.....	1,503,450	5,673	7,744,000	29,223	.....	9,603,081	.....	18,850,531	.....	\$36,228
Central Indiana Railway Co..	120,000	1,020	1,500,000	12,701	.....	831,927	.....	2,551,927	.....	3,135
Chicago, Cincinnati & Louis- ville Railway Co.....	4,206,000	16,559	6,490,000	25,551	.....	1,651,889	.....	12,347,891	.....	1,825
Chicago & Erie Railroad Co..	100,000	401	22,300,000	89,354	.....	942,410	.....	23,342,410	6,133	.....
Chicago & Eastern Illinois Railroad Co.....	22,618,100	27,676	43,294,520	52,976	.....	2,659,301	1,925,077	70,497,000	19,007	.....
Chicago, Indiana & Eastern Railroad Co.....	100,000	23,255	600,000	13,953	.....	285,137	8,589	1,873,727	.....	3,024
Chicago, Indiana & Southern Railroad Co.....	20,000,000	60,722	4,850,000	23,707	.....	12,215,863	.....	37,065,863	.....	17,280
Chicago, Indianapolis & Louis- ville Railway Co.....	50,500,000	30,464	14,942,000	29,368	.....	1,671,445	4,647,437	36,760,883	1,503	.....
Chicago, Lake Shore & Eastern Railway Co.....	650,000	3,215	5,554,000	27,473	.....	2,056,456	1,306,828	9,567,286	.....	8,090
Chicago, St. Louis & New Or- leans Railroad Co.....	10,000,000	7,775	34,500,000	26,824	\$22,729,000	13,908,534	.....	81,137,534	.....	26,417
Cincinnati, Bluffton & Chicago Railroad Co.....	1,125,000	40,178	834,000	.....	.....	.....	.....	.....	.....	.....
Cincinnati, Findlay & Ft. Wayne Railroad Co.....	1,250,000	13,736	1,150,000	12,637	.....	.....	.....	2,000,000	4,710	.....
Cincinnati, Hamilton & Day- ton Railway Co.....	16,000,000	49,895	57,251,000	161,403	56,000	11,369,916	1,769,031	86,445,948	130,510	.....
Cincinnati, Indianapolis & Western Railway Co.....	7,124,753	19,744	8,024,000	22,236	.....	817,468	3,614	15,660,836	.....	2,296
Cincinnati, Richmond & Ft. Wayne Railroad Co.....	1,709,312	19,915	1,800,000	20,972	.....	1,706,426	.....	5,215,739	.....	1,986

Cleveland, Cincinnati, Chicago & St. Louis Railway Co.	46,015,297	27,307	64,569,615	38,318	.....	11,539,587	1,149,699	123,274,200	5,098	.....
Elgin, Joliet & Eastern Railway Co.	6,000,000	26,277	8,500,000	37,226	.....	1,096,183	1,130,779	16,726,962	.....	3,577
Evansville Belt Railway Co.	100,000	22,472	.....	.....	.....	68,856	57,911	226,768	.....	25,408
Evansville & Indianapolis Railroad Co.	2,000,000	14,909	2,500,000	18,636	.....	132,297	.....	4,632,238	2,101	.....
Evansville & Terre Haute Railroad Co.	5,270,716	28,800	8,683,932	47,450	.....	350,779	1,245,821	15,551,250	1,393	.....
Grand Rapids & Indiana Railroad Co.	5,791,700	13,721	9,775,000	23,159	150,000	673,521	277,165	16,467,387	90	.....
Grand Trunk Western Railway Co.	6,000,000	18,132	20,372,000	61,563	.....	819,627	4,301	27,195,928	399	.....
Illinois Central Railroad Co.	95,040,000	45,335	80,394,275	27,116	74,500,000	19,635,730	4,474,767	274,044,792	21,135	.....
Indiana Stone Railroad Co.	15,000	1,627	253,000	27,440	.....	4,616	.....	272,616	.....	43
Indianapolis Union Railroad Co.	867,917	933,244	1,000,000	1,075,269	.....	532,594	301,432	2,701,944	.....	.....
Lake Erie & Western Railroad Co.	23,680,000	33,336	10,875,000	15,309	.....	1,367,572	614,618	36,537,191	.....	177
Lake Shore & Michigan Southern Railroad Co.	50,000,000	56,404	119,756,000	107,330	.....	11,025,168	17,094,560	197,875,729	68,631	.....
Louisville & Nashville Railroad Co.	60,000,000	15,173	128,536,500	32,504	3,871,000	9,628,386	18,130,045	220,065,983	6,055	.....
Louisville, New Albany & Corydon Railroad Co.	145,000	13,182	83,000	7,545	.....	6,252	5,355	240,208	13,172	.....
Michigan Central Railroad Co.	18,738,000	69,382	25,275,000	23,428	.....	13,471,607	9,014,600	66,499,207	.....	37,576
New York, Chicago & St. Louis Railroad Co.	30,000,009	57,557	19,801,220	37,990	.....	3,084,570	782,086	53,687,877	.....	120
Peoria & Eastern Railway Co.	10,000,000	29,292	12,585,100	40,985	.....	.....	567,094	24,559,194	.....	43
Pere Marquette Railroad Co.	28,000,000	11,631	57,876,292	24,082	1,400,000	7,931,053	.....	98,207,848	536	.....
Pennsylvania Co.	60,000,000	.....	186,876,717	.....	.....	26,666,502	7,344,339	279,976,562	.....	.....
Pittsburgh, Ft. Wayne & Chicago Railway Co.	54,059,085	115,046	12,410,000	26,410	1,100,000	2,017,212	11,686,269	81,272,587	1,811	.....
Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Co.	52,790,691	48,643	65,631,341	60,383	.....	12,016,966	5,000,122	135,339,124	11,132	.....
Rock Island & Southern Railroad Co.	842,500	38,390	.....	.....	.....	889	9,766	833,155	.....	38,530
Southern Railway Co.	180,000,000	36,075	201,415,116	40,367	40,910,066	20,638,872	.....	451,268,819	10,462	.....
Southern Indiana Railway Co.	11,000,000	49,520	2,667,308	48,112	98	1,250,968	89,726	23,028,103	23,755	.....
Toledo, St. Louis & Western Railroad Co.	20,000,000	44,374	16,500,000	36,608	.....	1,015,270	1,178,765	38,694,085	.....	817
Vandalia Railroad Co.	14,302,838	21,943	14,100,000	21,632	.....	2,418,353	1,506,167	32,378,169	2,525	.....
Wabash Railroad Co.	62,000,000	35,167	111,297,612	63,164	.....	7,340,691	248,200	180,866,105	14,757	.....
Total.....	\$983,665,159	.....	\$1,387,969,549	.....	\$144,716,183	\$214,440,540	\$91,651,993	\$2,852,746,154	.....	.....

TABLE No. 4—REPORT OF RAILROADS.
INCOME ACCOUNT—RECEIPTS ENTIRE LINE.

NAME OF RAILROAD.	Freight Receipts.	Passenger Receipts.	Other Income from Operation.	Rent of Tracks and Lands.	Dividends on Stocks Owned.	Interest on Bonds and Deposits.	Other Income.	Total Income.	
Baltimore & Ohio Railroad Co.	\$13,324,243	\$4,622,934	\$40,859	.....	.....	.....	.....	\$17,978,036	Lease of line.
Baltimore & Ohio Southwestern Railroad Co. ....	.....	.....	.....	.....	.....	.....	\$3,680,059	3,680,059	Lease of line.
Baltimore & Ohio & Chicago Railroad Co.	138,820	23,239	255	.....	.....	.....	3,005,616	3,005,616	.....
Central Indiana Railway Co.	409,058	147,546	347	.....	.....	.....	1,099	559,809	.....
Chicago & Erie Railroad Co.	3,278,248	1,047,845	2,795	\$1,759	79,200	11,417	.....	4,419,505	.....
Chicago & Eastern Illinois Railroad Co.	8,112,933	1,813,946	121,471	.....	160,540	146,476	.....	10,344,768	.....
Chicago, Indiana & Eastern Railway Co.	81,818	36,904	177	9,401	.....	.....	.....	118,899	.....
Chicago, Indiana & Southern Railroad Co.	1,993,582	153,759	142,024	.....	.....	26,915	.....	2,316,280	.....
Chicago, Indianapolis & Louisville Railway Co.	4,182,293	1,735,989	86,206	80,000	79,337	90,137	.....	6,253,963	.....
Chicago, Lake Shore & Eastern Railway Co.	3,662,127	.....	649,219	.....	.....	661	.....	4,311,997	.....
Chicago, St. Louis & New Orleans Railroad Co. ....	.....	.....	.....	.....	.....	.....	1,652,539	1,652,539	Lease of line.
Cincinnati, Bluffton & Chicago Railroad Co.	11,744	15,434	213	.....	.....	.....	1,392	28,783	.....
Cincinnati, Findlay & Ft. Wayne Railway Co. ....	.....	.....	.....	.....	.....	.....	46,000	46,000	Lease of line.
Cincinnati, Hamilton & Dayton Railway Co.	5,976,039	2,182,358	287,420	.....	50,044	23,591	.....	8,519,153	.....
Cincinnati, Indianapolis & Western Railway Co. ....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Cincinnati, Richmond & Ft. Wayne Railroad Co. ....	.....	.....	.....	.....	.....	.....	3,614	3,614	Lease of line.
Cleveland, Cincinnati, Chicago & St. Louis Railway Co.	15,101,244	8,046,677	501,337	.....	102,401	160,159	.....	23,911,819	Lease of line.
Elgin, Joliet & Eastern Railway Co.	2,363,717	1,841	263,853	.....	.....	21,187	.....	2,650,598	.....
Evansville Belt Railway Co. ....	.....	.....	.....	1,982	.....	.....	22,736	24,719	Lease of line.

Cincinnati, Richmond & Ft. Wayne Railroad Co.	3,304,358	3,252,442	10,953,785	533,917	c 4	126,000	136,300	792,495	72,314	d	6,676	119,323
Cleveland, Cincinnati, Chicago & St. Louis Railway Co.	328,307	243,300	819,738	61,361	p 5	2,853,366	2,853,366	82,480	e	s	26,285	23,911,819
Elgin, Joliet & Eastern Railway Co.	7,142				c 4	425,000		3,326	f	s	253,476	2,650,598
Evansville Belt Railway Co.								20,317	g	s	6,847	24,719
Evansville & Indianapolis Railroad Co.	77,441	42,448	151,207	12,582		152,510		71,966	a	d	72,800	386,740
Evansville & Terre Haute Railroad Co.	149,035	266,017	509,027	68,323	p 5	397,777		180,514	s	s	400,022	1,966,256
Grand Rapids & Indiana Railroad Co.	658,911	734,784	1,931,789	124,973	c 3	400,603		236,638	g	s	77,683	4,677,078
Grand Trunk Western Railway Co.	472,586	805,207	2,397,171	107,265		879,860		57,088	h	d	12,407	5,529,798
Illinois Central Railroad Co.	6,827,592	7,705,028	18,666,241	1,201,501	c 7	4,689,522	2,904,062	2,134,993	i	s	44,800	55,005,918
Indiana Stone Railroad Co.						12,650			j	s	82,173	923,703
Indianapolis Union Railroad Co.	113,193	40,755	378,658	17,390		45,000	49,576	95,081	k	d	253,702	5,004,624
Lake Erie & Western Railroad Co.	551,039	975,263	1,979,657	129,722	p 3	543,750		246,604	l	s	741,123	45,334,841
Lake Shore & Michigan Southern Railroad Co.	4,865,208	5,503,979	14,866,570	647,703	p 10	3,894,327	1,301,976	1,229,999	m	s	2,748,374	45,029,422
Louisville & Nashville Railroad Co.	6,480,442	7,823,879	15,664,655	964,483	c 6	5,408,733	952,791	1,077,387	n	s	3,652	22,283
Louisville, New Albany & Corydon Railroad Co.	3,910	1,226	4,375	3,175		4,980		962	o	s	3,652	22,283
Michigan Central Railroad Co.	3,362,749	5,569,918	11,053,970	597,074	c 4	1,006,983	1,598,751	977,502	p	s	348,349	25,545,727
New York, Chicago & St. Louis Railroad Co.	1,546,606	1,219,849	4,568,027	147,375	1-r 5	798,504	5,400	285,547	q	s	142,251	9,691,483
Pennsylvania Company & Erie Railroad Co.	536,842	389,547	1,195,432	60,558	2-p 3	564,260		91,901	r	s	301,663	3,141,614
Pennsylvania Company & Erie Railroad Co.	1,627,307	1,897,036	6,824,466	408,152		2,469,677		1,196,917	s	d	969,939	13,648,562
Pittsburgh, Ft. Wayne & Chicago Railway Co.	5,604,365	6,911,429	16,013,024	762,776	c 8	3,688,306	8,726,235	1,357,430	t	s	2,254,466	51,522,292
Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Co.				28,267	r 7	417,410		47,831	u	s	198,898	4,476,543
South Chicago & Southern Railroad Co.	4,301,473	6,348,413	12,463,966	649,611	p 4	2,671,127	1,408,640	1,111,639	v	s	688,630	33,611,168
Southern Railway Co.	7,096,428	8,565,518	20,849,177	1,752,355	p 5	8,105,249	1,557,588	1,499,037	w	d	160	22,580
									x	s	1,229,238	55,548,968

TABLE No. 5—REPORT OF RAILROADS—Continued.

NAME OF RAILROADS.	Main- tenance of Way & Struc- ture.	Main- tenance of Equip- ment.	Conduct- ing Trans- portation.	General Expenses.	Dividends.		Interest on Funded Debt.	Rent of Leased Lines.	Taxes Accrued.	Other Disburse- ments.	Surplus or Deficit.	Total Income.
					Rate.	Sum.						
Southern Indiana Railway Co.	\$161,029	\$181,421	\$432,723	\$82,414	.....	.....	\$367,086	\$17,500	\$64,802	\$2,838	s \$138,275	\$1,434,091
Toledo, St. Louis & Western Railroad Co.	543,398	577,586	1,734,068	121,048	.....	.....	598,875	.....	125,591	2,250	s 489,398	4,190,203
Vandalia Railroad Co.	1,115,594	1,407,554	3,480,651	178,791	c 4	\$564,766	589,000	202,832	247,529	a. 325,000	s 156,252	3,287,945
Wabash Railroad Co.	3,119,715	3,679,948	11,565,881	658,946	.....	.....	3,812,910	1,600	922,123	p 1,981,623	s 546,332	26,282,132
Total.....	58,467,585	73,052,222	180,007,122	10,694,031	.....	33,450,519	\$53,909,311	\$20,416,518	\$16,077,901	\$26,368,689	s 22,863,736 d 3,568,954	\$491,374,315

a Permanent improvements.

b Includes permanent improvements, \$198,987.

c Includes depreciation \$24,777.

d Includes interest on C. & W. bonds, \$52,418, other interest \$157,548.

e Includes \$1,601 permanent improvements and \$146,324 equipment fund.

f Includes \$1,217 permanent improvements.

g Includes \$17,523 for improvements.

h Includes \$275,000 for improvements.

i Includes \$1,164,738 for improvements.

j Includes \$133,422 loss on N. O. Railway, also \$315,712 permanent improvements.

k Includes \$3,004,533 permanent improvements.

l Includes \$250,000 permanent improvements and \$139,553 equipment trust paid.

m Includes \$48,490 permanent improvements and \$1,640,884 sinking fund.

n Includes \$1,683,137 permanent improvements and \$453,400 sinking fund.

o Includes \$219,357 permanent improvements.

p Includes \$69,627 permanent improvements, etc., \$1,522,986 unclassified expense.

r Includes \$85,000 permanent improvements.

TABLE No. 6—REPORT OF RAILROADS.
OPERATING STATISTICS, FREIGHT AND PASSENGER.

NAME OF RAILROAD.	Tons Carried.	Tons Carried One Mile.	Received in Cents per Ton Mile.	Freight Earnings per Mile.	Passengers Carried.	Passengers Carried One Mile.	Received per Passenger Mile.	Gross Earnings per Mile from Operation.	Operating Expenses per Mile.	Income per Mile from Operation.
Baltimore & Ohio Railroad Co.	14,721,078	2,294,065,700	5.92	\$10,506 59	4,020,050	187,128,319	1,892	\$14,176 25	\$8,737 08	\$5,399 17
Central Indiana Railroad Co.	306,447	13,095,263	1.06	1,092 73	4,531,608	7,014,349	1,635	1,277 67	1,296 38	d
Chicago, Cincinnati & Louisville Railway Co.	553,570	58,800,368	.306	1,502 58	216,341	7,014,349	1,635	2,045 81	2,408 36	d
Chicago & Erie Railroad Co.	8,696,544	717,145,391	.498	12,181 48	635,884	44,631,152	1,708	16,059 03	13,604 79	2,454 30
Chicago & Eastern Illinois Railroad Co.	10,893,057	1,738,897,891	.468	8,557 98	2,309,308	74,736,501	2,193	10,599 33	6,030 89	3,668 44
Chicago, Indiana & Eastern Railroad Co.	9,773,992	2,677,746	3.042	1,492 75	93,127	1,277,702	2,457	2,764 94	2,683 34	3,199 60
Chicago, Indianapolis & Southern Railroad Co.	8,271,389	293,094,060	.615	6,071 15	243,056	5,786,693	2,293	6,471 91	5,647 63	1,310 28
Chicago, Indianapolis & Louisville Railway Co.	3,424,363	523,222,865	.746	7,071 35	1,543,232	67,620,774	2,074	10,152 75	5,507 61	3,644 54
Chicago, Lake Shore & Eastern Railway Co.	10,158,253	.....	.....	7,778 62	.....	.....	.....	9,093 72	5,703 01	4,095 72
Cincinnati, Hamilton & Dayton Railroad Co.	.....	.....	.....	5,122 07	.....	.....	.....	9,081 10	7,634 51	1,198 55
Cincinnati, Hamilton & Dayton & St. Louis Railway Co.	8,110,541	939,657,226	.636	5,755 93	3,373,965	105,292,814	1,686	8,134 74	6,372 54	1,762 20
Cleveland, Cincinnati, Chicago & St. Louis Railway Co.	18,227,847	2,459,047,107	.815	7,613 74	6,120,201	339,364,592	1,915	11,923 48	9,087 59	2,835 89
Elgin, Joliet & Eastern Railroad Co.	6,901,086	423,063,102	.556	10,680 67	385	8,673	3,005	11,180 42	6,317 52	4,863 10
Evansville, Joliet & Eastern Railroad Co.	359,816	19,093,812	1.206	1,533 38	257,681	4,887,936	2,490	2,587 76	1,898 16	689 40
Evansville & Indianapolis Railroad Co.	2,665,017	130,027,961	.919	7,267 48	439,562	18,640,230	2,419	11,811 11	6,034 51	5,777 30
Evansville & Terre Haute Railroad Co.	3,933,221	402,716,552	.725	5,018 25	2,249,279	70,239,896	2,062	18,084 82	6,830 76	2,106 06
Grand Rapids & Indiana Railroad Co.	3,235,321	660,840,175	.596	11,148 15	1,717,268	102,876,131	1,347	15,837 23	11,284 84	4,612 39
Illinois Central Railroad Co.	25,611,146	6,230,593,529	.566	7,863 81	22,652,673	611,381,077	1,366	11,694 35	7,776 04	3,918 27
Indianapolis Union Railroad Co.	.....	.....	.....	285 21	.....	.....	.....	71,789 07	48,512 55	23,276 51
Lake Erie & Western Railroad Co.	3,841,293	558,490,379	.674	5,203 04	1,569,645	44,867,755	2,106	6,886 07	5,021 90	1,873 27
Lake Shore & Michigan Southern Railroad Co.	34,515,686	5,511,669,096	.516	19,024 73	7,323,572	386,401,581	2,018	27,050 46	17,024 67	10,025 79
Louisville & Nashville Railroad Co.	24,553,832	3,925,107,333	.803	7,454 20	10,666,500	362,746,083	2,436	10,411 61	7,488 29	2,923 23
Louisville, New Albany & Corydon Railroad Co.	25,024	202,695	5.788	1,518 33	24,569	189,181	4,545	2,893 91	1,743 25	1,147 66
Michigan Central Railroad	16,212,640	2,793,060,447	.623	16,130 11	4,158,514	267,051,750	2,107	14,424 77	11,733 66	2,691 11
New York, Chicago & St. Louis Railroad Co.	6,682,240	1,565,941,759	.518	14,768 95	969,016	89,122,772	1,543	17,664 09	13,615 26	3,948 83
Peoria & Eastern Railway Co.	2,686,369	371,714,066	.607	6,437 02	868,822	34,178,238	2,049	2,422 56	6,228 07	2,712 96
Pere Marquette Railroad Co.	339,919	47,614,824	.681	23,970 67	194,766	7,699,696	1,996	5,945 84	3,962 11	1,982 73
Pennsylvania Co.	79,327,567	5,563,946,332	.603	23,970 67	11,325,280	321,230,770	2,006	30,333 15	20,912 43	9,420 72

TABLE No. 6—REPORT OF RAILROADS—Continued.

NAME OF RAILROAD.	Tons Carried.	Tons Carried One Mile.	Received per Ton Mile in Cents.	Freight Earnings per Mile.	Passengers Carried.	Passengers Carried One Mile.	Received per Passenger per Mile.	Gross Earnings per Mile from Operation.	Operating Expenses per Mile.	Income per Mile from Operation.
Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Co.	37,123,272	3,721,397,850	.635	16,898 19	10,566,804	329,599,818	1,997	\$23,440 46	\$16,650 77	\$6,789 69
Southern Railway Co.	23,518,071	3,866,314,181	.930	4,901 23	11,663,550	549,518,645	2,413	7,272 85	5,188 85	2,084 00
Southern Indiana Railway Co.	2,294,017	98,718,989	.985	4,692 91	487,615	8,109,694	2,566	7,288 35	4,287 40	3,000 95
Toledo, St. Louis & Western Railroad Co.	3,041,448	674,113,132	.515	7,695 67	672,610	23,477,552	1,763	9,241 05	6,603 00	2,638 05
Vandalia Railroad Co.	7,918,986	772,468,341	.702	6,551 91	2,595,376	90,380,189	2,142	9,894 50	7,465 19	2,429 31
Wabash Railroad Co.	12,016,925	2,969,200,493	.553	6,683 14	5,555,687	360,013,901	1,374	10,141 73	7,557 82	2,583 91
Total	366,049,460	49,365,378,968			113,934,754	4,432,238,558				

TABLE No. 7—REPORT OF RAILROADS.
EMPLOYEES AND WAGES, AVERAGE DAILY COMPENSATION, INDIANA.

NAME OF RAILROAD.	General Officers.	Other Officers.	Office Clerks.	Station Agents.	Other Station Men.	Engineers.	Firemen.	Conductors.	Other Train Men.	Machinists.	Carpenters.	Other Shopmen.	Section Foremen.	Trackmen.	Switch and Cross-Tie Men.	Telegraph Operators.	All Other Employees.	Total Employees.	Average Daily Compensation.	Total Annual Wages.
Baltimore & Ohio Railroad Co.	3	21	37	77	130	181	176	148	357	170	194	1,040	81	449	45	87	152	3,345	\$2.04	\$2,092,526.93
Central Indiana Railway Co.	2	8	19	31	26	26	26	18	47	30	36	71	33	131	9	22	217	752	1.93	422,168.01
Chicago, Cincinnati & Louisville Railway Co.	2	5	36	32	258	76	85	57	147	63	58	405	30	309	23	70	9	1,633	2.00	969,987.23
Chicago & Erie Railroad Co.	1	1	1	50	.....	19	19	13	125	18	11	38	39	63	46	12	149	1,603	1.96	235,598.47
Chicago & Eastern Illinois Railroad	2	2	4	15	.....	5	7	8	9	4	6	20	7	25	2	.....	9	125	1.95	60,600.53
Chicago, Indiana & Eastern Railway Co.	2	1	12	31	10	74	72	37	73	9	14	54	78	1,162	25	30	194	1,376	1.85	1,089,107.45
Cincinnati, Indianapolis & Southern Railroad Co.	16	.....	109	88	316	137	141	110	215	65	90	455	110	726	68	53	102	2,801	2.11	1,902,576.73
Cincinnati, Indianapolis & Louisville Railway Co.	5	8	78	2	10	33	33	5	10	17	5	74	6	76	89	3	29	483	2.26	319,382.93
Chicago, Lake Shore & Eastern Railway Co.	1	.....	1	4	.....	2	2	2	2	.....	1	1	3	9	.....	.....	.....	28	1.86	15,684.00
Cincinnati, Bluffton & Chicago Railroad Co.	17	14	152	28	62	52	51	30	84	60	41	259	31	101	26	32	97	1,137	1.84	654,500.49
Cincinnati, Hamilton & Dayton Railway Co.	10	23	124	164	806	255	255	236	550	263	370	581	143	1,125	140	217	698	5,960	2.14	3,992,754.68
Cleveland, Cincinnati, Chicago & St. Louis Railway Co.	5	7	83	9	14	7	7	7	14	.....	.....	12	7	61	19	5	.....	257	1.63	66,754.65
Elgin, Joliet & Eastern Railway Co.	10	5	43	27	31	15	18	12	29	.....	17	.....	18	78	2	9	45	359	1.16	117,413.17
Evanston & Indianapolis Railroad Co.	10	7	43	34	163	44	49	31	69	95	94	56	28	199	104	25	185	1,238	1.83	571,390.22
Evanston & Terre Haute Railroad Co.	12	10	162	107	347	116	118	115	240	49	88	251	118	425	121	102	386	2,767	2.07	1,833,932.95
Grand Rapids & Indiana Railroad Co.	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....

TABLE No. 7—REPORT OF RAILROADS—Continued.

NAME OF RAILROAD.	General Officers.	Other Officers.	Office Clerks.	Station Agents.	Other Station Men.	Engineers.	Firemen.	Conductors.	Other Train Men.	Machinists.	Carpenters	Other Shopmen.	Section Foremen.	Trackmen.	Switch and Cross- ing Tenders and Watchmen.	Telegraph Oper- ators.	All Other Em- ployes.	Total Employees.	Average Daily Compensation.	Total An- nual Wages.
Grand Trunk Western Rail- road Co.	1	1	12	14	24	2	2	41	92	.....	17	.....	20	67	36	17	38	384	2 02	\$257,992 52
Illinois Central Railroad Co.	.....	1	5	41	37	24	24	25	68	.....	7	.....	16	68	6	14	46	406	1 99	201,046 33
Indianapolis Union Railroad Co.	4	.....	11	15	89	22	20	21	48	8	14	42	19	240	67	35	9	664	1 72	373,793 51
Lake Erie & Western Rail- road Co.	8	8	104	84	173	77	72	49	128	13	72	54	72	250	62	62	290	1,576	2 11	1,044,231 56
Lake Shore & Michigan Southern Railroad Co.	.....	.....	.....	40	211	203	187	128	260	221	148	408	79	1,528	76	75	719	4,283	2 05	2,755,621 65
Louisville & Nashville Rail- road Co.	2	.....	7	2	90	7	7	5	13	65	305	431	6	66	48	23	36	1,113	1 84	642,562 44
Louisville, New Albany & Corydon Railroad Co.	3	1	.....	2	36	56	60	34	60	.....	1	.....	1	15	3	.....	4	38	1 75	7,836 79
Michigan Central Railroad Co.	.....	.....	.....	14	.....	.....	.....	.....	.....	16	3	.....	20	71	54	28	134	606	2 17	459,166 48
New York, Chicago & St. Louis Railroad Co.	.....	.....	.....	31	3	31	31	28	63	2	36	16	29	300	48	44	158	821	2 22	488,951 35
Peoria & Eastern Railway Co.	12	3	19	32	28	32	32	20	67	53	60	94	29	168	13	23	72	770	2 07	500,338 75
Pere Marquette Railroad Co.	6	14	17	4	10	12	12	10	34	16	84	64	23	170	3	3	.....	139	1 96	121,384 65
Pennsylvania Company	1	12	170	30	310	122	114	104	186	157	269	1,238	73	819	67	131	168	4,041	2 20	2,613,638 73
Pittsburgh, Cincinnati, Chi- cago & St. Louis Railroad Co.	9	35	433	139	571	299	292	233	546	116	127	1,232	167	1,630	218	273	840	7,160	2 22	4,327,786 55
Southern Railway Co.	.....	3	.....	38	22	54	54	44	98	43	143	301	47	313	7	24	80	1,273	1 88	702,566 56
Southern Indiana Railway Co.	.....	6	49	43	40	29	29	28	64	18	7	175	43	180	28	23	63	880	1 99	544,941 47
Toledo, St. Louis & Western Railroad Co.	2	4	20	35	69	39	39	25	52	43	84	73	35	206	53	29	135	943	1 97	624,350 84
Vandalia Railroad Co.	12	18	95	102	270	141	160	98	285	165	227	820	122	536	227	161	381	3,828	2 06	2,380,412 71
Wabash Railroad Co.	5	15	70	58	196	93	93	57	193	163	48	201	55	276	68	57	177	1,325	2 27	1,286,412 21
Total	163	239	1,927	1,438	4,354	2,296	2,296	1,796	4,178	1,856	2,659	3,570	1,582	11,732	1,802	1,099	5,606	54,333	.....	\$33,903,569 91

TABLE No. 8.—REPORTS OF RAILROADS.
ACCIDENTS IN INDIANA.

CAUSE.	Train-men.			All Other Em- ployes.			Passen- gers.			Postal Clerks, Ex- press and Baggage and Pull- man Employees.			Trespass- ers.			Not Trespass- ers.			TOTAL.		
	No. Kill- ed.	No. In- jured.	No. Total.	No. Kill- ed.	No. In- jured.	No. Total.	No. Kill- ed.	No. In- jured.	No. Total.	No. Kill- ed.	No. In- jured.	No. Total.	No. Kill- ed.	No. In- jured.	No. Total.	No. Kill- ed.	No. In- jured.	No. Total.	No. Kill- ed.	No. In- jured.	No. Total.
Coupling or uncoupling.....	10	163	173	2	5	7	104	16	110	14	5	19	1	4	5	1	16	21	10	168	
Collisions.....	19	146	165	2	16	18	4	12	16	3	1	4	1	2	2	1	3	25	27	300	
Parting of trains.....	9	57	66	1	12	13	110	1	13	1	5	6	1	5	6	9	16	9	1	187	
Derailments.....	2	15	17	1	30	31	1	1	2	1	21	22	1	21	23	2	2	25	27	272	
Locomotives or cars breaking down.....	17	205	222	2	20	22	4	39	1	1	58	60	5	58	63	5	5	27	27	291	
Falling from trains, locomotives or cars.....	2	169	171	18	33	51	1	1	2	2	2	4	2	2	4	1	1	30	1	30	
Jumping on or off locomotives or cars.....	7	37	44	33	33	66	1	1	2	2	2	4	2	2	4	1	1	44	44	135	
Struck by trains, locomotives or cars.....	1	30	31	18	33	51	1	1	2	2	2	4	2	2	4	1	1	23	23	75	
Struck by overhead obstructions.....	1	30	31	18	33	51	1	1	2	2	2	4	2	2	4	1	1	149	149	149	
Struck at highway crossings.....	1	30	31	18	33	51	1	1	2	2	2	4	2	2	4	1	1	2	2	835	
Struck at stations.....	1	30	31	18	33	51	1	1	2	2	2	4	2	2	4	1	1	342	342	342	
Struck at other points on track.....	1	30	31	18	33	51	1	1	2	2	2	4	2	2	4	1	1	2	2	835	
Hauling traffic.....	1	30	31	18	33	51	1	1	2	2	2	4	2	2	4	1	1	2	2	835	
Handling tools and machinery.....	1	30	31	18	33	51	1	1	2	2	2	4	2	2	4	1	1	2	2	835	
Handling supplies.....	1	30	31	18	33	51	1	1	2	2	2	4	2	2	4	1	1	2	2	835	
Getting on or off locomotives or cars, at rest.....	11	561	572	3	636	639	69	61	130	4	5	9	1	26	31	1	33	20	1	1,329	
All other causes.....	11	561	572	3	636	639	69	61	130	4	5	9	1	26	31	1	33	20	1	1,329	
Total.....	78	1,402	1,480	29	2,140	2,169	6	347	24	181	207	48	193	342	4,313	342	193	342	4,313	4,313	

APPENDIX IV.

Average Class Rates in Indiana.

The following table shows the rate or unit of average charge per hundred pounds made by railroads in the State, based upon a local mileage scale of five-mile blocks, from the different basing points shown below. On account of the irregularity with which rates change, it is impossible to reduce such rates to the local mileage scale, and, therefore, the average of all rates charged within a certain block of mileage is computed in the following table. All cases where an asterisk is placed against figures, the fall in the average is due to the entering into that average of a low rate made to a junction point to meet the rate of the short line route to a point within that particular block of mileage.

In the averages shown for the P., C., C. & St. L. Ry in two instances a dagger is shown against the figures. This average was computed on a mileage which is out of proportion to other hauls on that line, due to the fact that the P., C., C. & St. L. Ry. has a trackage agreement with the L. E. & W. R. R. Co. out of Indianapolis, to use the latter company's tracks for all business beyond Kokomo on P., C., C. & St. L. tracks, but on Kokomo business proper the P., C., C. & St. L. Ry. must haul it over its own tracks via Richmond, Ind., a distance of 153 miles.

An illustration follows of the method of computing the averages shown in the tabulation:

The rates charged by the Evansville & Indianapolis R. R. Co., from Evansville, Ind., to Elliott, Elberfeld, Lynn, Buckskin, Mackley and Somerville, Ind., together with the distances to those points, are as follows: (For sake of brevity only the first-class rate is used.) See E. & I. GFD 3448:

From Evansville—

To Elliott, distance 12 miles; first class rate.....	15 cents
To Elberfeld, distance 15 miles; first class rate.....	15 cents
To Lynn, distance 17 miles; first class rate.....	20 cents
To Buckskin, distance 20 miles; first class rate.....	20 cents
To Mackley, distance 22 miles; first class rate.....	20 cents
To Somerville, distance 24 miles; first class rate.....	20 cents

The reduction in this instance is to the 15-mile block and the 20-mile block. The scope of the average for the 15-mile block extends 5 miles either side of 15, i. e., for 15 miles, average of all rates charged from and including 11 miles to and including 20

miles; and for the 20-mile block, the average is the average of all rates charged from and including 16 miles to and including 25 miles. These computations may be diagramed as follows:

	Actual Dist.	Rate to Station.	
15	12	15	
	15	15	
20	17	20	
	20	20	Total of rates 70; Average 17.5.
	22	20	
	24	20	Total of rates 80; Average 20.

Rates in Cents Per 100 Pounds.[illegible]

[illegible]

APPENDIX V.

Law Creating the Commission.



CHAPTER 53.

AN ACT providing for the creation of a Railroad Commission, the appointment and compensation of the members thereof, prescribing the powers and duties of such Commission and its members, prescribing certain duties and obligations of railroad companies, express companies and other common carriers, defining certain misdemeanors and prescribing penalties, providing for the collection of penalties by civil action from railroad companies and other common carriers by the State in cases therein provided for, appropriating money to carry out its provisions, providing for a review of the decisions of the Commission and conferring jurisdiction on certain courts to hear and determine such proceedings, and repealing all laws and parts of laws in conflict therewith.

[S. 22. APPROVED FEBRUARY 28, 1905.]

Railroad Commission—Appointment—Oath—Salary, Etc.

Section 1. Be it enacted by the General Assembly of the State of Indiana, That a Railroad Commission is hereby created, to be composed of three persons, to be appointed by the Governor, who shall, within sixty days after the taking effect of this act, appoint three persons as such Commissioners, whose term of office shall begin on the Monday next following such appointment, one of whom shall hold office for a term of four years, one for a term of three years and one for a term of two years or until their successors shall be appointed and qualified. Therefore at the expiration of the term of office of each of such Commissioners, his successor shall be appointed by the Governor for a term of four years; provided that at no time shall there be more than two of said Commissioners members of the same political party.

(a) The persons so appointed shall be resident citizens of this State, and qualified voters under the constitution and laws, and not less than thirty years of age.

(b) No Commissioner hereunder shall hold any office under the government of the United States or of this State, or of any other State government; and shall not, while such Commissioner, engage in any occupation or business inconsistent with his duties as such Commissioner.

(c) The Governor may remove any Commissioner at any time for inefficiency, neglect of duty or malfeasance in office, but he shall give to such Commissioner a copy of the charges against him and an opportunity of being heard in his defense. The Governor

shall fill any vacancy by appointment and the person so appointed shall fill out the unexpired term of his predecessor.

(d) Before entering upon the duties of his office, each of said Commissioners shall take and subscribe and file with the Secretary of State an oath of office in the following form: I do solemnly swear (or affirm, as the case may be) that I will support the constitution of the United States and the constitution of the State of Indiana; and that I will, to the best of my ability, faithfully and justly discharge the duties of the office of Railroad Commissioner and enforce the provisions of all laws of the State of Indiana which declare and define my duties, and of all laws of said State the enforcement of which devolves upon the Railroad Commission of Indiana. Each of said Commissioners shall file in the office of the Secretary of State a good and sufficient bond in the sum of ten thousand dollars to be approved by the Governor for the faithful discharge of his duties.

(e) Each of said Commissioners shall receive an annual salary of four thousand dollars (\$4,000), payable in the same manner that salaries of other State officers are paid.

(f) It shall be unlawful for any member of said Commission, their secretary, or any of their clerks and employes, to receive any free transportation, reduced rates for transportation or any other perquisite, gift, or emolument from any railroad company or other party interested in railroad transportation during the term of their respective office or employment, and any person violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than fifty dollars nor more than one thousand dollars, and upon conviction thereof of any Commissioner, the Governor shall declare his said office to be vacant and a successor shall be selected as elsewhere provided by this act in case of vacancy.

Organization—Secretary—Clerk—Salary—Office Expenses.

Sec. 2. The Commissioners appointed as hereinbefore provided shall meet at Indianapolis on the Thursday next following the commencement of their term of office and organize, and select one of their number chairman of said Commission. A majority of said Commissioners shall constitute a quorum to transact business. Said Commission may appoint a secretary at a salary of not more

than twenty-five hundred (\$2,500) dollars per annum, and may appoint one clerk at a salary of not more than fifteen hundred (\$1,500) dollars per annum, and such other persons as may be necessary to aid the Commission in enforcing the provisions of this act. The secretary shall keep a full and correct record of all the transactions and proceedings of said Commission, and perform such duties as may be required by the Commission. The Commission shall have power to make all needful rules for their government and for their proceedings. They shall be known collectively as "Railroad Commission of Indiana," and shall have a seal with the words "Railroad Commission of Indiana" engraved thereon. The said Commission shall be furnished with the necessary office rooms in the State Capitol building at Indianapolis and with necessary furniture, stationery and other supplies needed in the discharge of its duties. All the necessary expense of said Commission in carrying into effect all the provisions of this act, including salaries of its appointees and employes other than traveling expenses, shall be audited and approved by the Auditor of State and paid by the Treasurer of State out of any funds in his hands not otherwise specifically appropriated. The members of said Commission, its secretary and clerk, shall be entitled to receive from the State their actual necessary traveling expenses, which shall include the cost only of transportation and hotel bills while traveling on the business of the Commission, which amount shall be paid by the Treasurer of State on the order of the Governor upon an itemized statement thereof, sworn to by the party who incurred such expense in traveling, and after the same shall have been approved by the Commission.

(a) Said Commission may hold sessions at any place in this State when deemed necessary to facilitate the discharge of its duties.

Powers and Authority.

Sec. 3. The power and authority is hereby vested in the Railroad Commission of Indiana, and it is hereby made its duty as hereinafter provided to supervise all railroad freight and passenger tariffs, and to adopt all necessary regulations to govern car service and the transfer and switching of cars from one railroad to another at junction points or where entering the same city or town,

and to supervise charges therefor; to require and supervise the location and construction of sidings and connections between railroads; to supervise the crossing of the tracks and sidetracks of railroads by other railroads now in process of construction or extension, or which may be hereafter constructed or extended, and to prescribe the terms and conditions and manner in which such crossings shall be made; and the character thereof, whether at grade or over or under grade, and the authority now vested in the Auditor of State under the laws of this State with reference to the crossings of railroads by other railroads, or by railroads operated by electricity, and the installation and maintenance of interlocking appliances at such crossings is hereby vested in the Commission; to supervise and regulate private car line service and private tracks where such tracks are operated in connection with any railroad in this State, or share in the rates or earnings of any common carrier subject to the provisions of this act; to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads, and to enforce the same by proceedings for the enforcement of penalties provided by law through courts of competent jurisdiction.

(a) The classification of freight adopted by the railroads shall be uniform and shall apply to and be the same for all railroads subject to the provisions of this act.

(b) The said Commission shall have power and it shall be its duty, as hereinafter provided, upon the failure of the railroad companies so to do, to fix and establish for all or any connecting lines of railroads in this State reasonable joint rates of freight, transfer and switching charges for the various classes of freight and cars that may pass over two or more lines of such railroads.

(c) If any two or more connecting railroad companies shall fail to agree upon a fair and just division of the charges arising from the transportation of freights, passengers or cars over their lines, the Commission shall, as hereinafter provided, fix the pro rata part of such charges to be received by each of said connecting lines.

(d) The Commission shall have power as hereinafter provided and it shall be its duty from time to time, to alter, change, amend or abolish any classification or rate established by any railroad

company or companies whenever found to be unjust or discriminative, and such amended, altered or new classifications or rates shall be put into effect by said railroad company or companies.

(e) The Commission may adopt and enforce such rules, regulations and modes of procedure as it may deem proper, to hear and determine complaints that may be made against the classifications or the rates maintained by the common carriers subject to the provisions of this act, or against the rules, regulations and determinations of the Commission.

(f) The Commission shall enforce as hereinafter provided, reasonable and just rates of charges for each railroad company subject hereto for the use or transportation of loaded or empty cars on its roads; and may so enforce for each railroad, or for all railroads alike, reasonable rates for storing and handling of freight, and for the use of cars not unloaded after forty-eight hours' notice to the consignee, not to include Sundays or legal holidays.

(g) The Commission shall enforce reasonable rates as hereinafter provided for the transportation of passengers over each or all of the railroads subject hereto, which rates shall not exceed the rates fixed by law. The Commission shall have power to enforce reasonable rates, tolls or charges for all other service performed by any railroad subject hereto.

(h) The provisions of this section shall be construed to mean that said Commission shall have power to correct, alter, change or establish rates, charges, classifications, rules or regulations where the railroads or express companies, respectively, or any of them, fail to have just and reasonable and undiscriminative rates, charges, classifications, rules and regulation [s] in operation and effect, and shall exercise such power only where some person or corporation injuriously affected by such rate, charge, classification, rule or regulation, shall have filed with said commission, a written verified complaint setting forth the unreasonable character of the rate, charge, classification, rule or regulation complained of; and when any such complaint shall have been filed, the said Commission shall have power to proceed to hear and determine said complaint and consider the reasonableness of such rate, charge, classification, rule or regulation, after the notice provided for in Section 4 of this act has been given; and after such hearing shall make

such corrections, alterations, changes or new regulations, or any part thereof, as may be necessary to prevent injustice and discrimination to the party complaining: Provided, That when any such rate, charge, classification, rule or regulation shall have been changed, or modified, by any order of said Commission, such order shall operate for the benefit of all persons or corporations, situated similarly of said complaining party and on the line of said railroad complained of: Provided, further, That at any hearing provided for in this section, all oral testimony heard by the Commission shall be taken down in shorthand and all written and documentary evidence heard or considered, and all pleadings and other papers pertaining to such hearing shall be kept on file in the office of the Commission, so that a complete transcript of all such proceedings, including all the evidence, may be made whenever required.

Revision of Rates—Notice—Hearing—Rules—Powers.

Sec. 4. Before any rates or charges of railroads or express companies shall be revised or changed under the provisions of this act, and before any order shall be made by the said Railroad Commission changing the rules or regulations of any such company respecting car service, the transfer or switching of cars from one railroad to another, or respecting the location or construction of sidings and connections between roads or respecting joint rates or charges by two or more of such companies, the said Commission shall give to the company or companies affected by such proposed order or revision not less than twenty days' written notice of the time and place where such rates or charges or the matters involved in said proposed order shall be considered; and such company shall be entitled to a hearing at the time and place specified in such notice and shall have process to enforce the attendance of its witnesses. All process herein provided for shall be served as in civil cases.

(a) The Commission shall have power to adopt rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings of railroad companies and other parties before it, in the consideration of rates, orders, charges and other acts required of it under this law: Provided, That all persons inter-

ested in the result of any such investigation or hearing shall have the right to be present.

(b) The chairman and each of the members of said Commission for the purposes mentioned in this act shall have power to administer oaths to witnesses appearing before the Commission in the course of any hearing or investigation provided for by this act. Subpœnas commanding the attendance of witnesses and the production of papers, bills of lading or other evidence of shipment, way bills, books, accounts and other documents deemed necessary by the commission in any proceeding pending before it may be issued by said commission, signed by its secretary and served by reading or by copy, and such subpœnas shall be served and the attendance of all such witnesses enforced as provided in Section 12 of this act.

When Actions Not to Be Controverted.

Sec. 5. In all actions between private parties and railroad companies or private car line companies brought under this law, the rates, charges, orders, rules, regulations and classifications approved by or made by said Commission before the institution of such action shall be held, deemed and accepted to be reasonable, fair and just, and in such respects shall not be controverted therein except as hereinafter provided until finally found otherwise in a direct action brought for that purpose in the manner prescribed by Sections 6, 6½ and 7 hereof.

Appeals to Appellate or County Courts—Appeal Proceedings.

Sec. 6. If any railroad company or other corporation or party in interest shall be dissatisfied with any rate, classification, rule, charge or general regulation made, approved, adopted or ordered by the Commission, such dissatisfied company or party may, within sixty days after any such action has been taken by the Commission, procure from the secretary of the Commission, whose duty it shall be to furnish the same, a complete transcript of all the proceedings of the Commission relative thereto, and if he or it so desires, a copy of all the evidence heard or considered by the Commission at the hearing at which such action or decision was made, which evidence shall be incorporated into such transcript,

and such dissatisfied company or party may file said transcript, with a concise written statement of its or his causes of complaint against the action of the Commission, in the office of the clerk of the Appellate Court of Indiana within thirty days after procuring the same, and not later than ninety days after the action of the Commission complained of has been spread upon its records. Said complaining company or party shall, at the time of filing such transcript, give or cause to be given to said Commission written notice thereof, and shall, within five days thereafter, file proof of such notice in the office of said clerk of the Appellate Court, who shall, ten days thereafter, or upon the appearance of said Commission to said appeal, place said cause upon the docket of the said Appellate Court for hearing and determination. The Commission shall be made a party to such proceeding in the Appellate Court, and shall defend the same. All such causes shall be given precedence over all other civil causes in said Appellate Court, and shall be heard and determined upon the transcript filed as aforesaid, as speedily as possible, to the end that public interests may not suffer by reason of such appeal. Jurisdiction to hear and determine such appeals, and power to adopt rules of procedure to facilitate the speedy determination thereof not inconsistent with this act, are hereby conferred upon the Appellate Court of Indiana. The Appellate Court shall have power to affirm the action of the Commission appealed from, or to change, modify or set aside the same as justice may require. The decision of the Appellate Court in any such matter shall be final, and said Commission shall keep copies of all such findings and judgments on file in its office. If any such railroad company, or other corporation or party in interest shall be dissatisfied with any order or regulation of said Commission respecting the location or construction of sidings, switches or connections between railroads, or the crossing of one railroad by another, or the transfer and switching of cars at junction points, or the regulation of private tracks, such dissatisfied company or party may, within thirty days after any such order or regulation has been made, file a written petition in the Circuit or Superior Court of the county wherein any such siding, switch, connection, crossing, junction point or private track is situate, setting forth therein the particular cause or causes of objection to the order or regulation of the Commission, complained of. The said Commission

shall be made a defendant to such proceeding, and shall have at least ten days' written notice of the intention of said company or party to file such petition, which notice shall set forth the date on which the petition shall be filed, and the court wherein it shall be filed, and jurisdiction is hereby conferred upon all such circuit and superior courts to hear and determine such proceedings. After the filing of such petition, and upon proof of the service of the said notice, or upon the appearance of said Commission to such petition, the said proceedings shall be set down for hearing without delay, and shall be heard and determined as a suit in equity, without a jury. Any such court shall have power to affirm the action of said Commission so complained of or to change, modify, or set aside the same as justice may require. Either party to said proceeding shall have the right to appeal from the finding and judgment therein to the Appellate Court of Indiana in the same manner that appeals are prosecuted in civil cases from judgments of circuit and superior courts in such cases.

Commission's Orders When in Force—Indemnity Bond.

Sec. 6½. All orders of the Commission made and entered upon its records as herein provided respecting rates, charges, rules, regulations and classifications, or respecting the location or construction of sidings or connections between railroads, or to the crossing of one railroad by another, or the transfer and switching of cars at junction points, or the regulation of private tracks, shall be operative and in full force at and from the time fixed therefor by the commission as hereinafter provided, until any such order shall have been changed, modified or set aside by a circuit, superior or appellate court under the proceedings provided for in Section 6 of this act: Provided, however, That if at the time of filing a transcript in the office of the clerk of the Appellate Court of Indiana, as provided in Section 6, appealing from the action of said Commission in fixing or changing any rate or charge of any common carrier for the transportation of freight, or passengers, the railroad company or other common carrier, filing such petition, shall also file a bond in such amount as shall be fixed by said court and with surety to the satisfaction of such court, conditioned for the payment to the Commission for the use of all persons who may be injuriously affected by such proceeding, of any and all amounts

in which any of such persons may be damaged thereby, and for the refunding to each shipper or passenger of all over-payments of freight or passenger charges made by him to such complaining carrier pending such proceeding, and for the prompt payment of all penalties provided for herein, to which any or all such shippers may be entitled, then, and in such case the said complaining carrier may charge to and collect from all shippers of freight and all passengers on its said line or lines, the same rate for freight received by it and transported, or the same passenger rate that existed before the making of the order by the said Commission which is complained of in said proceeding until such proceeding is finally determined by said court.

(a) Any railroad company or other carrier of passengers, which has filed the transcript and bond herein provided for, and which under the provisions of this section shall continue to charge the same rate for the transportation of passengers as existed and was in force prior to the order of the Commission complained of, shall execute to each and every person from whom it shall collect such rates, during the pendency of the said proceedings in the said court, a written or printed certificate showing the amount so received on account of each of such passage, and the rate charged, which certificate shall also contain a promise by said railroad company or other carrier, to repay to said passenger the difference between the rate so charged and the rate so fixed or ordered as aforesaid by the Commission, in case the rate so fixed or ordered by said Commission shall be upheld or approved by said Appellate Court. In the event that the rate so fixed or ordered by the Commission and complained of in such proceeding shall be upheld and approved by said court, then all the certificates and promises of repayment aforesaid, so issued as aforesaid, shall become due and payable on demand to the several passengers and shippers holding the same, at the respective stations of the railroad company or other carrier, where the same are executed, thirty days after such decision of the court shall have been rendered. Any railroad company or other carrier of freight which has filed the petition and bond herein provided for, and which under the provisions of this section shall continue to charge the same rates for the transportation of freight as existed and were in force prior to the order of the Commission complained of, shall refund to said shipper

within thirty days after presentation of the claim to any freight officer or agent of said railroad company or other carrier of freight, the difference between the rate so charged and the rate so fixed or ordered as aforesaid by the Commission, in case the rate so fixed or ordered by said Commission shall be upheld or approved by said court. Said claim shall be evidenced and paid in such manner as shall be prescribed by the Commission. In case any such railroad company or other carrier of freight or passengers shall upon demand fail to pay to the holder of any such certificate or claim for overcharge, the amount due thereon, within the time hereinbefore fixed, any such holder shall have a right of action not only to recover the amount due thereon but also to recover a penalty of one hundred dollars from any such railroad company or common carrier, together with a reasonable attorney's fee and the amount due on such certificate, or claim for overcharge, and such penalty and attorney's fee may be recovered in the same action, to be brought in any court of competent jurisdiction in any county through which any such railroad passes, or in which any such other carrier may carry on business in this State.

Burden of Proof.

Sec. 7.—In all trials under Section 6 of this act, the burden of proof shall rest upon the plaintiff, who must show by clear and satisfactory evidence that the rates, regulations, orders, classifications, acts or charges complained of are unreasonable and unjust to it or them.

Rates, Rules, Etc.—Copy to Railroad.

Sec. 8. The said Commission shall, as soon as any revision or classification or schedules of rates or charges or rules or regulations are adopted by it, furnish each railroad company subject to the provision of this act with a certified copy thereof in suitable form, showing the revision, alterations, rule or regulation made by the Commission, to be delivered to each of the said railroad companies at its principal office in this State, if it has such office in this State, and if not, then to any agent of said company in this State, which said revision, alterations, rules or regulations shall take effect at the date which may be fixed by said commission, which shall not be less than twenty days after the delivery of such certi-

fied copy to the railroad company as aforesaid. Each of said railroad companies shall cause said revised schedules, or rules or regulations to be printed in large type and shall have the same posted up in a conspicuous place at each of its depots, accessible to the public, so as to be inspected by the public, or shall keep the same on file in each of said depots for the inspection of all interested persons, in which case, there shall be a notice printed in large type posted up in some conspicuous place in each of said depots notifying the public that tariffs, naming rates on all traffic and copies of said rules and regulations, are kept at such stations for public inspection as required by law and can be seen by any person interested therein upon application to the freight agent at any such station. And any person so interested shall be entitled to inspect such schedules, tariffs, rules or regulations upon proper demand of any agent having charge of any such station. If said Commission shall at any time, abolish, alter or in any manner amend the said schedule, or abolish or amend any such regulation, then in that event, certified copies of the said rules or regulations, showing the changes therein shall be delivered to each railroad company as herein specified. No increase shall be made in any rate or classification by any railroad company except after ten days' notice to the Commission.

Examination of Books and Officers—Refusal—Penalty.

Section 9. In any matter or controversy under investigation by the Commission, the Commissioners, or either of them, or such person or persons as they may employ therefor shall have the right, at such times, as they may deem necessary, to inspect the books and papers or other documents of any railroad company subject to the provisions of this act, and to examine under oath any officer, agent or employe of such railroad company in relation to the business and affairs of the same; and said Commissioners, or either of them, or such other person as may be employed by them as aforesaid, shall also have the right to exercise like powers as to all other persons or corporations having books, papers, documents or information bearing upon such investigation. If any railroad company, or such other person or corporation shall refuse to permit the Commissioners or either of them, or any person authorized

thereto as aforesaid to examine its books and papers, or other documents as aforesaid, such railroad company or other person or corporation shall, for each offense, pay to the State of Indiana not less than \$100 nor more than \$500 for each day it or he shall so fail or refuse: Provided, That any person other than one of said Commissioners who shall make any such demands shall produce his authority, under the seal of said Commission, to make such inspection.

(a) Any officer, agent or employe of any railroad company or any other person or corporation who shall, upon proper demand, fail or refuse to exhibit to the Commissioners or either of them, or any person authorized to investigate the same, any book, paper, or other documents of such railroad company or any other person or corporation which is in the possession or under the control of such officer, agent or employe, shall be deemed guilty of a misdemeanor, and upon conviction in any court having jurisdiction thereof, shall be fined for each offense a sum not less than \$100 and not to exceed \$500.

Demand for Information—Failure—Penalty.

Sec. 10. Within sixty (60) days after the taking effect of this act all railroads doing business in the State of Indiana, and to which any of the provisions of this act apply, shall, upon demand, in any matter under investigation by said Commission furnish said Commission with copies of all its schedules of rates, charges and classification of freight, joint tariffs and division of rates, and shall in addition thereto, furnish said commission with copies of all rules and regulations concerning the switching or transfer of freight and cars and of rules providing charges therefor, and copies of all rules, orders or schedules fixing or providing for mileage, per diem, demurrage or storage charges, or for use of cars loaded or empty, and upon the adoption of any new classification, schedule of rates, rules or orders said railroad company shall, within ten (10) days thereafter, furnish said Commission with copies thereof, and the failure of any railroad company to which any of the provisions of this act applies, to furnish any of the things above provided for within the time specified, shall be a misdemeanor and said railroad company shall, upon conviction thereof

in any court of competent jurisdiction, be fined not less than fifty dollars (\$50) nor more than one thousand dollars (\$1,00), and the continuance of such failure or refusal shall constitute a separate offense for each day of its continuance.

Interrogatories—Penalty—Interstate Commerce—Bill of Lading.

Sec. 11.—The said Commission shall have power to elicit all information deemed by it necessary to the hearing and consideration of any complaint made to said Commission and shall have power to elicit from any railroad company or companies or any other person or corporation to be affected by any such investigation any and all information necessary to the consideration and determination of any and all questions over which this Commission shall have jurisdiction, and for said purpose said Commission may submit blanks provided for the purpose of eliciting such information or may submit written interrogatories to such railroad company or companies, or person or corporation, and said blank shall be properly filled out and said interrogatories so answered as to answer fully and correctly each question therein propounded, and in case they are unable to answer any question they shall give a satisfactory reason for their failure, and the said answers, duly sworn to by the proper officers of said company or corporation or by said person, shall be returned to said Commission at its office in the city of Indianapolis within thirty (30) days from the receipt thereof, or said Commission may use such other means or methods of securing such information as may be deemed expedient by it.

(a) If any officer or employe of a railroad company or any other person or corporation as aforesaid shall fail or refuse to fill out and return any blank or to answer any interrogatories as above required, or fail or refuse to answer any questions therein propounded, or give a false answer to any such question, where the fact inquired of is within his knowledge, or shall evade the answer to any such question, such person shall be guilty of a misdemeanor and shall, on conviction thereof, be fined for each day he shall fail to perform such duty after the expiration of the time aforesaid a penalty of five hundred dollars (\$500) and the Commission shall cause a prosecution therefor in the proper court; and a penalty of a like amount shall be recovered in a civil action from the railroad company or other corporation or employer when it appears that

such person acting in obedience to its or his directions, permission or request in his failure, evasion or refusal.

(b) The said Commission shall make and submit to the Governor annual reports containing a full and complete account of its transaction and proceedings, together with the information gathered by such Commission as herein required, and such other facts, suggestions and recommendations as may be by it deemed necessary, which report shall be published as the reports of other state officers and boards.

(c) When on the verified complaint of any interested person or corporation, the said Commission shall, on the investigation of such complaint be convinced that the freight rates on any railroad in Indiana, engaged in interstate commerce are excessive or levied or laid in violation of the interstate commerce law or the rules and regulations of the Interstate Commerce Commission, the superintendent, agent or other official of the said railroad companies shall be notified in writing of the facts and requested to reduce or correct them, as the case may be. When the rates are not changed or the proper corrections are not made according to the request of the Commission, the latter is authorized and empowered to notify the Interstate Commerce Commission and to apply to it for relief.

(d) Whenever any property is received by any common carrier subject to the provisions of this act to be transported from one place to another within the State, it shall, upon demand of the shipper, issue a receipt or bill of lading therefor, naming therein the classification of said freight and the rate of freight at which the same is to be carried, and it shall be unlawful for such common carrier to limit by contract or otherwise the negotiability of and bill of lading; nor shall any carrier limit or change its common law liability by contract or otherwise, as to its responsibility for the negligent act of its agents and servants with reference to property in its custody as a common carrier: Provided, That nothing herein contained shall be so construed as to abridge, or in anywise lessen the liability of any such carrier as it now is under existing laws.

Witnesses—Fee—Attachment—Contempt.

Sec. 12. The said Commission in making an examination or investigation provided for in this act, shall have power to issue

subpoenas for the attendance of witnesses by such rules as they may prescribe. Each witness who shall appear before the Commission by order of the Commission shall receive for his attendance two dollars (\$2) per day and three cents per mile traveled by the nearest practicable route, in going and returning from the place of meeting of said Commission, which shall be ordered paid by the Auditor of State, who shall draw and deliver his warrant upon the State Treasurer to such witness for such amount upon the presentation of proper vouchers, sworn to by such witness, and approved by the chairman of the Commission. In case any witness shall fail or refuse to obey such subpoena, said Commission may apply to any court of competent jurisdiction to issue an order and an attachment for said witness, directed to any sheriff or constable of the State of Indiana, and compel him to attend before the Commission and give his testimony and answer any question upon such matters as shall be lawfully required by it. If a witness, after being duly summoned or ordered by any court, shall fail or refuse to attend or to answer any question propounded to him, and which he would be required to answer if in court, such court shall have the power to fine and imprison such witness for contempt. The claim that any such testimony may tend to criminate the person giving it shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding: Provided, That the Commission and all parties to any such investigation shall, in all cases, have the right in its discretion to issue proper process and take depositions instead of compelling personal attendance of witnesses, as depositions are taken in civil cases. The sheriff or constable executing any process issued under the provision of this section or under any other provisions of this bill shall receive such compensation as may be allowed by the Commission, not to exceed fees now prescribed by law for similar service in civil cases.

Fixed Rates—Violation of—Penalty.

Sec. 13. If any railroad company, subject to this act, or its agent, or officer, shall hereafter wilfully charge, collect, demand or receive from any person, company, firm or corporation a greater or less rate, charge or compensation than that approved by the Railroad Commission for the transportation of freight, passengers

or cars, or for the use of any car on the line of its railroad, or any line operated by it or for the transfer or switching of a car or cars from its line or track to that of any other railroad company for receiving, forwarding, handling or storing such freight or cars or for any other service performed by it, such railroad company and its agent and officer shall be deemed guilty of extortion and shall forfeit and pay to the State of Indiana a sum not less than \$100 nor more than \$500, to be recovered by said Commission in a civil action to be instituted for that purpose in any court of competent jurisdiction.

Unjust Discrimination—Penalty.

Sec. 14. If any railroad subject hereto, directly or indirectly, or by any special rate, rebate, drawback or other device, shall charge, demand, collect or receive from any person, firm or corporation a greater or less compensation for any service rendered or to be rendered by it than it charges, demands, collects or receives from any other person, firm or corporation for doing a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such railroad shall be deemed guilty of unjust discrimination, which is hereby prohibited.

(a) It shall also be an unjust discrimination for any such railroad company to make or give any undue or unreasonable preference or advantage to any particular person, firm, corporation or locality, in connection with the transportation of any shipment or shipments, or to subject any particular kind of traffic to any undue or unreasonable prejudice, delay or disadvantage in any respect whatsoever.

(b) Every railroad company which shall fail or refuse, under such regulations as may be prescribed by the Commission, to receive and transport without unreasonable delay or discrimination the passengers, tonnage and cars, loaded or empty, of any connecting line of railroad company, and every railroad company which shall under such regulations as may be prescribed by the Commission, fail or refuse to transport and deliver without unreasonable delay or discrimination any passengers, tonnage or cars, loaded or empty, destined to any point on or over the line of any connecting line of railroad, shall be deemed guilty of unjust discrimination:

Provided, That perishable freights of all kinds and live stock shall have precedence of shipment: Provided further, That this shall not be so construed as to require any railroad company to give the use of its terminal facilities to any other railroad company engaged in like business, except that if such terminal facilities are granted to one company, they shall be granted on like terms to all other companies.

(c) It shall also be an unjust discrimination for any railroad company subject hereto to charge or receive any greater compensation in the aggregate for the transportation of like kinds of property or passengers for a shorter than for a longer distance over the same line in the same direction, the shorter distance being included in the longer: Provided, That upon application to the Commission any railroad company may in special cases, to prevent manifest injury, be authorized by the Commission to charge less for longer than for shorter distance for transporting persons and property, and the Commission shall from time to time prescribe the extent to which such designated railroad may be relieved from the operation of this subdivision: Provided, That no manifest injustice shall be imposed upon any person at intermediate points. Provided, further, That nothing herein shall be so construed as to prevent the Commission from approving what are known as "group rates" on any of the railroads in the State.

(d) Any railroad company violating any provision of this section shall be deemed guilty of unjust discrimination, and shall for each offense pay to the State of Indiana a penalty of not less than \$500 nor more than \$5,000, to be recovered in a civil action instituted for that purpose in a court of competent jurisdiction.

(e) That nothing in this act shall prevent the carriage, storage, or handling of property free or at reduced rates for the United States, State or municipal governments, or for charitable purposes, or to or from fairs and expositions for exhibition thereat, or the free carriage of destitute and homeless persons transported by charitable societies, and the necessary agents employed in such transportation, or the issuance of mileage, excursion, or commutation passenger tickets. Nothing in this act shall be construed to prohibit any common carrier from giving free passes or tickets to officers and employes of Young Men's Christian Associations, reduced rates to ministers of religion, or to municipal gov-

ernments for the transportation of indigent persons, or to inmates of the National Home or State Home for disabled volunteer soldiers, and of soldiers' and sailors' orphans' homes, including those about to enter and those returning home after discharge, under arrangements with the boards of managers of said homes. Nothing in this act shall be construed to prevent railroads from giving free carriage to their own officers and employes, or to prevent the principal officers of any railroad company or companies from exchanging passes or tickets with other railroad companies for their officers and employes.

False Billing, Etc.—Rebate—Misdemeanor—Penalty.

Sec. 15. Any officer or agent of any railroad company subject to this act, who by means of false billing, false classification, false weight, or by any other device, shall suffer or permit any person to obtain transportation for property at less than the regular rate then in force on such railroad, or who by means of false billing, false classification, false weighing or by any device whatever, shall charge any person, firm or corporation, more for the transportation of property than the regular rates, shall be guilty of a misdemeanor, and on conviction thereof, fined in a sum not less than \$100 nor more than \$1,000.

(a) Any person, firm, or corporation, who shall receive any rebate or concession, or who knowingly by means of false weight, false classification, false billing, or by any other device, shall obtain lower than the regular rates then in force, shall be guilty of a misdemeanor, and upon conviction shall be fined in a sum of not less than \$100 nor more than \$1,000.

Unlawful Act—Civil Damages.

Sec. 16. In case any railroad company subject to this act shall do, cause to be done, or permit to be done, any matter, act or thing in this act prohibited, or declared to be unlawful, or shall omit to do any act, matter or thing herein required to be done by it, such railroad company shall be liable to the person or persons, firm or corporation injured thereby for the damages sustained in consequence of such violations, and in case said railroad company shall be guilty of extortion or discrimination as by this act defined, then in addition to such damages, such railroad company shall pay

to the person, firm or corporation injured thereby a penalty of not less than \$100 nor more than \$500, to be recovered by civil action in any court of competent jurisdiction in any county into or through which such railroad may run. Provided, That such company may plead or prove as a defense to the action for such penalty that such overcharge was unintentionally and innocently made through a mistake of fact: Provided, That such recovery as herein provided shall in no manner affect a recovery by the State of any penalty provided for such violation.

Violation of Duty—Penalty—Civil Action.

Sec. 17. If any railroad company as aforesaid shall wilfully violate any other provision of this act and shall do any other act herein provided, or shall fail or refuse to perform any other duty enjoined upon it for which a penalty has not herein been provided, for every such act of violation it shall pay the State of Indiana a penalty of not more than \$1,000, to be recovered in a civil action to be instituted for that purpose in any court of competent jurisdiction.

Recovery of Penalties.

Sec. 18. All of the penalties herein provided, except as provided in Section 16, shall be recovered, and suits thereon shall be brought in the name of the State of Indiana, in any circuit or superior court in any county into or through which said railroad may run, by the Attorney-General or under his direction; and the attorney bringing such suit shall receive a fee of fifty dollars for each penalty recovered and collected by them, and ten per cent. of the amount collected to be paid by the State. In all suits arising under this act the rules of evidence shall be the same as in ordinary civil action, except as otherwise herein provided. All penalties recovered by the State under this act shall be paid into the treasury of the State.

Evidence as to Rates, Rules, Etc.—Certified Copies.

Sec. 19. Upon application of any person, the Commission shall furnish certified copies of any classification, rates, rules, regulations or orders, and such certified or printed copies published by authority of the Commission shall be admissible in evidence in any suit and sufficient to establish the fact that any charge, rate,

rule, order or classification therein contained and which may be at issue in the trial is the official act of the Commission. A substantial compliance with the requirements of this act shall be sufficient to give effect to all the classifications, rates, charges, rules, regulations, requirements and orders made and established by the commission and none of them shall be declared inoperative for any omission of a technical matter in the performance of such act.

Enforcement—Prosecution.

Sec. 20. It is hereby made the duty of such Railroad Commission to see that the provisions of this act and all laws of this State concerning railroads are enforced and obeyed, and that violations thereof are promptly prosecuted, and penalties due the State therefor recovered and collected. And said Commission shall report all said violations, with the facts in their possession to the Attorney-General or other officer charged with the enforcement of the laws and request him to institute the proper proceeding; and all suits between the State or the Commission and any railroad or express company shall be placed immediately upon the trial calendar of the courts wherein the same are pending, and shall have precedence over all other civil causes pending in such courts, to the end that there may be speedy trials and adjudications thereof.

(a) It shall be the duty of the Commission to investigate all complaints against the railroad company subject hereto, and to enforce all laws of this State in reference to railroads.

Terms Defined—Express Companies—Street Railroads.

Sec. 21. The term "road," "railroad," "railroad companies," "railroad corporations," "private car lines," "fast freight" or "carrier," as used herein, shall be taken to mean and embrace all corporations, companies, individuals and association of individuals, their lessees or receivers appointed by any court whatsoever, that may now or hereafter own, operate, manage or control any railroad or part of railroad in this State or any fast freight line or private car lines and express companies, and all such corporations, companies, and associations of individuals, their lessees or receivers that shall do the business of common carriers on any railroad in this State.

(a) The provisions of this act shall be construed to apply to and affect only the transportation of passengers, freight, express matter and cars between points within this State; and this act shall also apply to express companies: Provided, That this act shall not apply to street or interurban railroads, except as section three (3) substitutes the Railroad Commission, created hereby for the Auditor of State, in respect to duties pertaining to the construction and maintenance of interlocking works at crossings of railroads and railroads operated by electricity.

Right of Action.

Sec. 22. This act shall not have the effect to release or waive any right of action by the State of any person for any right, penalty or forfeiture which may have arisen, or may hereafter arise under any law of this State; and all penalties accruing under this act shall be cumulative of each other, and a suit for or recovery of one shall not be a bar to the recovery of any other penalty.

Road Defects—Recommendations—Reports.

Sec. 23. Whenever said Commission shall receive reliable information or of themselves shall have reason to believe that there is a dangerous defect in any railroad bridge, culvert, water tank or crane, frog, railroad or wagon road crossing, curve, embankment, road bed, ties or track, motive power, or any other fault in the construction, equipment or management of any railroad within the State of Indiana, it shall be the duty of said Commission to cause such investigation to be made as it may deem necessary, and when such investigation shall have been made, said Railroad Commission shall make a report in duplicate, under oath, of findings and recommendation, one to the Governor of the State of Indiana, and one to the manager, superintendent or such other official within the State of any railroad company complained of that may be legally served with process against such company under the statutes of said State. In said reports and recommendations, the Commission shall make an accurate statement of the time when such examination was made, of the exact location, character and extent of such defects, if any shall have been found, and shall also recommend such reasonable changes and improvements as are, in the opinion of the Commission, necessary to remedy

such defects; and said reports shall be filed over the signature of said Railroad Commission with the seal of said Commission attached.

Appropriation.

Sec. 24. The sum of nineteen thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the payment of the salaries of the members and employes of said Commission, and of the expenses necessary to effectually carry out the provisions of this act, and this shall be deemed a continuing appropriation from year to year during the existence of said Commission.

Repeal.

Sec. 25. All laws and parts of laws in conflict with this act are hereby repealed.

APPENDIX VI.

Rules of Procedure.

RULES AND FORMS

ADOPTED BY THE

RAILROAD COMMISSION OF INDIANA.

Revised and Approved November 1, 1906.

1. SESSIONS AND INFORMAL HEARINGS.

A. *Office*.—The office of the Secretary of the Commission will be open each work day from 8 a. m. to 5 p. m., where petitions, complaints and other documents may be filed for the consideration of the Commission, and where information may be obtained concerning the pending business of the Commission.

B. *Hearings*.—Public hearings of contested cases will be held at Room 85 of the State House, unless otherwise ordered by the Commission, of which notice will be given to the interested parties.

C. *Informal Complaints*.—All informal complaints in writing brought to the attention of the Commission, concerning any matter within the jurisdiction of the Commission, will be at once investigated under direction of the Commission, and if well founded, an effort will be made by the Commission to adjust the cause of complaint between the parties.

2. RECORDS.

A. *Entry Docket*.—There will be kept in the office of the Secretary an Entry Docket, in which all contested cases will be entered, as filed, bearing consecutive numbers.

B. *Final Record*.—Also a Final Record, in which the proceedings of the Commission, in contested cases, shall be entered at length by the Secretary under direction of the Commission.

C. *Adjustment Record*.—Also an Adjustment Record, in which the proceedings upon all complaints which do not result in a contested hearing, shall be briefly entered by the Secretary under the direction of the Commission.

D. *Reading*.—No final record shall become effective until read in the presence of a quorum of the Commission and signed by its Chairman, or, in case of his absence, by the other members of the Commission.

ADVERSE PROCEEDINGS.

3. PARTIES.

A. *Generally*.—Any person, firm or association, private or municipal corporation, having any cause of complaint, which is within the jurisdiction of the Commission, against any person, firm or association, private or municipal corporation, doing business in this State may file a petition in the personal, firm or corporate name, with the Commission for relief.

B. *Joint Parties*.—If the relief sought is of common interest to two or more parties, competent to petition therefor, although not identical in place, service, rate or other matter, but of the same general nature, they may join in the same proceeding.

C. *Special Territory*.—If the relief sought is of common and general benefit and interest to the people of any particular territory or locality in the State, then one or more persons, firms or corporations, interested in such territory or locality, and in the relief sought, may petition therefor, for and in behalf of the whole number interested therein.

D. *The State*.—In case the relief sought is of common and general interest to all the people of the State, then any one or more persons, firms, private or municipal corporations, competent to petition therefor under paragraphs "A" and "B" of this rule, may file a petition for relief for and on the behalf of all of the people of the State.

E. *Adverse Parties*.—If the relief sought will operate against more than one party, then all parties to be affected thereby shall be joined in the petition and notified of the same.

F. *Attorneys*.—The party complaining shall be designated as "petitioner," and the party complained against shall be designated as "respondent." Parties may appear in person or by attorneys, who are authorized to practice law in the circuit and appellate courts in this State.

G. *New Parties*.—In case any person, firm or association, private or municipal corporation, not a party to the cause shall have

an interest in the result of the proceedings, such party may file their application to be allowed to join therein, and, if granted by the Commission, such new party shall file such papers or pleadings therein as the Commission may order. The Commission may, at any time, on its own motion, order any new parties to be joined in the proceedings so as to subserve the ends of justice.

4. PLEADING.

A. *Generally.*—Each pleading filed shall be printed or typewritten and indorsed with the title and number of the cause, and with the name and address of the attorney filing the same. One copy of the pleading shall be furnished for the files of the Commission and one for each of the respondents.

B. *Pleadings Limited.*—The only pleadings permitted are the Petition, Answer, Offer of Satisfaction and Cross Petition.

C. *Petition.*—The petition shall be verified and set forth the residence and occupation of the petitioner. The cause of complaint shall be set forth briefly and in plain and concise language, free from technical terms, showing plainly the facts upon which the cause of complaint is predicated.

Each cause of complaint shall be separately stated and numbered. The petition shall close with a specific statement of the relief demanded.

D. *Answer.*—The answer shall be filed in twenty days after service of summons (Sundays excluded), and shall consist of three parts.

First: An admission of all parts of the petition which are not controverted.

Second: A denial of the other portions of the petition.

Third: A specific statement, in plain and concise language, free from technical terms, showing plainly the facts constituting the respondent's special defense to the petition.

Each special cause of defense shall be separately stated and numbered. A copy of the answer shall be mailed to the petitioner's attorney by the respondent and one filed with the Commission, and one retained by the respondent. All special matter contained in the answer will be taken as controverted by the petitioner without plea.

E. *Offer of Satisfaction*.—If the respondent desires to tender satisfaction to the petitioner, in the matter complained of in the petition, then within ten days after service of summons (Sundays excluded), the respondent shall mail to the petitioner's attorney, and to the Commission, an Offer of Satisfaction, in such terms as the respondent desires to grant. If the Offer of Satisfaction is acceptable to the petitioner, and to the Commission, an order closing the cause will be entered by the Commission.

F. *Cross Petition*.—If the respondent has a demand against the petitioner for affirmative relief growing out of the matter embraced in the petition, which is within the jurisdiction of the Commission to grant, a cross petition may be filed with the petitioner will be required to answer without summons, and within such time as the Commission may order. Such cross petition and answer thereto and the proceedings of the Commission thereon, shall conform to the provisions of these rules regarding original petitions, answers and objections thereto, excepting as to notice.

5. SPECIAL PROCEEDINGS.

A. *Generally*.—In addition to compliance with the provisions of Rule 4, so far as applicable, there shall also be stated in and furnished with the pleadings filed in the special cases enumerated in this rule the following facts and exhibits:

B. *Sidings*.—The petitioner must show the past and present facilities at the point in question; the territory tributary to the point; the extent and character of the traffic to be accommodated; the efforts made to adjust the matter before filing the petition and results obtained. The answer of the company shall respond to the allegations of the petition and also exhibit a map, profile and estimate, certified by the engineering department, showing the present and proposed facilities for switching, and an estimate of the cost of the proposed siding. The company shall also exhibit in its answer a statement of the freight receipts at said point for the three preceding fiscal years for which the books of the company have been closed. Such statement to include all freight coming in and going out, paid and prepaid.

C. *Connections*.—Petitions to establish switching connections between crossing or contiguous railroads must show past and pres-

ent facilities; the occasion for the proposed change; the traffic to be accommodated; the effort to adjust the dispute, if any, and the result obtained. The petitioner must file a map, profile and estimate, certified by its engineering department, showing the location involved, proposed plan of connections and probable cost thereof. The answer shall respond to the petition and may exhibit counter maps, profiles, proposed plans and estimates.

D. *Crossings*.—Petitions to supervise and prescribe the terms and conditions and manner of one railroad crossing another railroad, shall state the exact point of the proposed crossing; the effort made to agree with the opposite parties concerning terms for crossing and the matter of difference existing between the companies on the question, and what is proposed by the petitioner as proper terms and conditions to be enforced by the Commission. The petition shall exhibit a plat of the proposed crossing, and a profile of each of the roads for one quarter of a mile in each direction from the proposed point of crossing, also a proposed plan for the crossing, and an estimate of the probable expense of installing the same, together with estimate of the probable damages, if any, to be sustained by the older company on account of the crossing, all to be certified by its engineering department. The answer shall respond to the allegations of the petition and may exhibit counter statements, maps, profiles, estimates and propositions, to be certified by the respondent's engineering department.

E. *Train and Car Service*.—Petitions concerning discrimination and abuse with reference to passenger and freight train service, and car service, at any point or locality, shall embrace all the facts required in petition by paragraph "B" of this rule, and the petitioner shall also file with such petition, a copy of the train schedule of the company in force in the locality at the time, and shall show in the petition all the facts constituting the abuse and in what manner and to what extent the petitioner or locality is being discriminated against, and what point or points, person or persons on the respondent's line in this State receives an unjust advantage on account of the discrimination. The answer shall respond to the petition and shall exhibit the passenger or freight earnings at such point for the three preceding fiscal years for which the books of the company have been closed.

F. *Terminal Facilities*.—Petitions to acquire terminal facilities or regulate abuses or discriminations in the use thereof, shall be accompanied by a map of the territory showing the terminal in question, and the past and present facilities for the use thereof, and the proposed change therein or connection therewith, and the facilities now furnished to companies other than the petitioner and those furnished to the petitioner, if any. The petition shall state the efforts made to obtain the privileges sought and the result of the negotiations and present status of the controversy. Any abuses or discriminations sought to be corrected must be clearly and specifically stated, upon the facts, and not left to inference or intendment. The answer shall respond to the petition and may exhibit counter maps of the locality and counter propositions for change of facilities.

6. AMENDMENTS.

Any pleading may be amended or substituted pleading filed or party substituted upon leave granted, at any time before the hearing. Amendments may also be made and substituted pleadings filed or parties made, if allowed by the Commission, pending or after the hearing, so as to conform to the proofs. If substituted pleadings are filed, the original pleading shall not be included in the transcript for appeal, unless requested by one of the parties.

7. DISMISSAL.

The petitioner or cross-petitioner may dismiss the cause at any time without prejudice, upon leave granted by the Commission. If the Commission determines that the cause of complaint is not wholly personal to the petitioner and should be investigated, it will retain jurisdiction and continue the investigation for the benefit of other persons or corporations situated similarly with the petitioner on the line complained of, such investigation to be, however, without expense to the petitioner who desires to dismiss. In such case any other person interested, upon motion, may be substituted as petitioner.

8. SUBPOENAS.

A. *For Witnesses*. Subpoenas for witnesses will be issued by the Secretary upon request of the parties, and will be directed to

any sheriff or constable of any county in the State, indicated by the party.

B. *For Records*.—Subpœnas for witnesses or parties to produce books, papers and other documents, will be issued by the Secretary and attested by the seal of the Commission and directed as specified in paragraph "A" of this rule. Such subpœna, however, will not be issued unless ordered by the Commission, until the party requesting it files with the Commission a statement, in general terms, of the items of evidence desired and obtains the approved thereof by the Commission or some member thereof.

9. EVIDENCE.

A. *Preserved*.—All documentary evidence given at each hearing shall be preserved in the files of the Commission. All oral evidence delivered at each hearing shall be taken in shorthand and the records thereof preserved in the files of the Commission.

B. *Rules*.—In the production and delivery of the proof, technical rules of evidence will not be observed. Objections to the form of questions and answers will not be permitted or noted. Objections to the competence of the witness and the evidence offered will be entertained by the Commission and its decisions thereon noted in the record. Such questions of competency to be determined by the laws of Indiana pertaining in the trial of civil cases, excepting that the Commission will presume that any person acting, or who has acted, as an agent or representative or officer of any other person or corporation is, or was such in fact, so as to make his acts, statements, writing and declarations competent, without proof of his selection or appointment, until the contrary is shown by his principal or the party against whom the proof is produced.

C. *Depositions*.—The deposition of any witness may be taken and used by the parties, or by the Commission, in accordance with the provisions of Article Fifteen of the Revised Statutes of 1901, of the State of Indiana, excepting that the limitations of Section 427 of said article shall not apply to limit the cases in which depositions may be taken and used. The provisions of paragraph "C" of this rule shall also apply to evidence contained in depositions.

D. *Schedules and Rules*.—In any hearing subject to appeal to the Appellate Court, the Commission, upon its own motion, may,

after notice to the parties and hearing their objections thereto, order included in the record of the evidence any schedule of freight rates or classification of freights or freight rates or schedule of passenger rates, or any statement of rules and regulations concerning demurrage, car service, switching charges, transfer charges, or joint rates of freight and division thereof, which the Commission shall determine to be of value in the consideration of the pending cause, and the Commission will presume that such items of evidence are genuine, if they appear to have been made or published by authority of any board or company having authority to promulgate the same, until the contrary is shown, and, provided further, that the parties shall be given full opportunity to show any difference in the local situation in the pending cause, as compared with the locality where such schedule, rule or regulation may be in operation.

10. *Interrogatories.*

At any time after the service of summons and before the hearing, either party may submit proposed interrogatories to the Commission, with a request for an order upon the opposite parties to answer the same. If the Commission is satisfied that the information sought to be elicited by the interrogatories proposed, is a proper subject of inquiry and will facilitate the final hearing of the cause, it may propound to the opposite party such of the interrogatories as it approves, and such as it may suggest on its own motion, and require the same to be answered, positively and without evasion, under oath, and within such time as the Commission may direct. If the interrogatories are directed to a corporation, the answers thereto shall be made by the proper officers or agents of such corporation. Such interrogatories and the answers thereto shall be considered a part of the record of the cause and in evidence upon the final hearing.

A failure or refusal by the party to answer the interrogatories as directed by the Commission, without excuse for such failure or refusal, may be punished by the Commission, in its discretion, by striking out the pleadings of such party.

11. COSTS.

A. *Fees Fixed.*—The officers serving summonses, subpoenas and notices required by the act creating the Commission, and required by these rules, are authorized to tax upon such process the same fees that are allowed by the laws of Indiana to county sheriffs upon like civil process issued from circuit courts.

B. *Interlocking Fees.*—In case the Commission employs an engineer to advise it upon proceedings to interlock crossings the fees for his service will be fixed by the Commission and, together with ten dollars per day for the Commission, as fixed by statute, will be charged to the petitioner under said paragraph "E," and apportioned to the parties under said paragraph "F" in the same proportion as the Commission shall fix for paying the expenses of installation. The fees so fixed shall be paid to the Secretary of the Commission upon demand, and be, by the Secretary, turned into the State Treasury.

12. REHEARINGS.

Either party to any contested cause, which is subject to appeal to the Appellate Court of this State or to retrial in any circuit or superior court of the State, within fifteen days after any final decision is given or final order entered by the Commission, may file their written application with the Commission for a rehearing or modification of such final decision or order. Such application shall conform to the rules concerning petitions and shall state with clearness and certainty each reason advanced why a rehearing should be granted, or the decision or order modified. The opposite party shall be served by mail with a copy of the petition.

13. COPY ON APPEAL.

The Secretary will include in his transcript for appeal under Section 6 of the act creating the Commission, true copies of this and the preceding rules.

EX PARTE AND ADMINISTRATIVE.

14. COMPLAINTS.

A. *Interstate Commerce.*—If, pursuant to paragraph "C" of Section 11 of the act creating the Commission a verified complaint shall be filed by any interested party, charging a violation of the interstate commerce law or the rules of the Interstate Commerce Commission, concerning freight rates, by any railroad in this State, engaged in interstate commerce, such complaint will be at once investigated by the Commission, and if convinced that such freight rates are excessive or levied in violation of the rules of the Interstate Commerce Commission, the carrier will be requested to reduce the rate or correct the abuse or discrimination, and, if the request is not complied with the Commission will apply to the Interstate Commerce Commission for relief. Notice of such verified petition, when filed, will be given the carrier by mail, and full opportunity given to meet the charge during the investigation by the Commission.

B. *Defects in Roads.*—The Commission upon receipt of reliable, written information thereof, or when it shall have reason to believe that there is a dangerous defect in the physical condition of any railroad or its equipment, or fault in its management, as provided by section twenty-three of the act creating the Commission, it will proceed to investigate the same or appoint some one of its members to take the evidence and present it to the Commission for consideration. Notice of such investigation will be given to the company by mail, and opportunity given to all interested parties to produce witnesses and to be heard upon all questions presented.

15. LONG AND SHORT HAUL.

A. *Notice to Change Rule.*—Before the Commission will hear any application by any railroad company or carrier, as provided in paragraph "C," Section 14, of the law creating the Commission, for permission to charge or receive any greater compensation in the aggregate for the transportation of passengers or freight for a shorter than for a longer distance over its lines in the same direction, the shorter being included in the longer, the Commission will publish a notice for ten days in some newspaper in the locality

where the proposed permit is to operate, or give such other notice as the Commission may determine upon, and the cost of giving such notice shall be paid by the applicant to the Secretary upon demand.

B. *Parties*.—Any person, firm or corporation, or two or more of such parties, being interested therein, may appear at the time and place fixed by such notice, and file their answer and resist such application.

16. INVESTIGATIONS AND PROSECUTIONS.

A. *Notice*.—In exercising the powers given and in performing the duties enjoined upon the Commission, to see that the provisions of the act creating the Commission and all laws of this State concerning railroads are enforced and obeyed, the Commission, upon complaint, or upon its own motion, will proceed from time to time to inquire whether any of such laws are being violated, and before reporting any company or carrier to the Attorney-General for prosecution it will give the company or carrier notice, by mail, of the investigation and an opportunity to be heard. In making such investigation the Commission, or any party interested in such investigation and appearing therein, may have subpoena issued for persons and papers as provided in rule eight.

B. *Responses Required*.—Wherever the Commission has such matter under investigation each company or carrier doing business in this State, or association of carriers, shall, upon demand from the Commission, deliver to the Commission any and all schedules and classifications of freight and passenger tariffs, rules covering car service, switching charges, transfer charges, joint rates and division thereof, demurrage rules and all other rules, schedules, classifications and rates demanded by the Commission, which are being used and practiced by the company or carrier and which concerns or regulates its business with the public.

The following forms are approved by the Commission and may be used with such alterations as may be necessary to meet the requirements in different cases:

Form 1.

STATE OF INDIANA,
RAILROAD COMMISSION OF INDIANA.

.....		Petitioner.	}	PETITION.
No.	vs.			
.....		Respondent.		

Your petitioner, above named, respectfully complains of the respondent, above named, and says that your petitioner resides at and is engaged in the business of at, in said State, and that the respondent is engaged in the business of at, in said State.

That the respondent, above named, is denying the petitioner certain rights and privileges contrary to the laws of said State, in this: First: (Here let the petitioner state his cause of complaint as required by the rules of the Commission, each cause of complaint to be separately numbered.)

Wherefore, your petitioner demands that the respondent be required to: First: (Here state the specific relief demanded, each separate kind of relief to be separately stated and numbered.)

.....,
Petitioner.

By
Attorney.

Residence

To be verified by petitioner.

Form 2.

STATE OF INDIANA,
RAILROAD COMMISSION OF INDIANA.

.....		Petitioner.	}	ANSWER.
No.	vs.			
.....		Respondent.		

The respondent in the above cause for answer to the petition therein says:

1. That (here state such facts as are embraced in the petition and admitted by the respondent).
2. That the respondent denies all the other allegations of said petition.
3. That the petitioner is not entitled to the relief demanded because, First: (Here separately state the number, the special defenses founded upon allegations of fact, as required by the rules.)

.....,
Respondent.

By
Attorney.

Residence

To the Commission and Petitioner:

If this offer of satisfaction is accepted by the petitioner and approved by the Commission the respondent agrees to put the same into effect within days after receiving notice of acceptance, through the secretary of the Commission.

Residence

Rules of the Railroad Commission of Indiana Concerning Inter- locking Devices.

The momentary nod of a drowsy engineman renders valueless the most expensive form of block signal, automatic, controlled or manual. The mistake of a sleepy operator nullifies the most carefully conceived system of train dispatching. The momentary forgetfulness of a weary conductor defies the laws of cause and effect. The nap of a wornout flagman marks the passage of human beings from time to "eternity."—*Railway Age*, March 23, 1906.

The following rules on the subject of interlocking devices supersede all other rules of the Commission on that subject and have been adopted, after a conference, held March 6, 1906, at Indianapolis, Ind., participated in by the Commission and George U. Bingham, its consulting engineer, and the following representatives of the railroads:

Mr. V. I. Smart, Signal Engineer, Chicago, Ill., representing Frisco Lines.

Mr. F. P. J. Patenall, Signal Engineer, Baltimore, Md., representing B. & O. System.

Mr. W. McC. Grafton, Signal Engineer, Pittsburg, Pa., representing Pennsylvania Lines.

Mr. G. H. MacDonough, Signal Engineer, Cincinnati, O., representing Big Four Lines.

Mr. A. S. Kent, Division Engineer, Chicago, Ill., representing Monon.

Mr. W. H. Willis, Signal Engineer, Passaic, N. J., representing the Erie.

Mr. Edward Gray, Signal Engineer, St. Louis, Mo., representing the Southern Railway.

Mr. E. T. Ambach, Signal Engineer, Cincinnati, O., representing the C., H. & D.

Mr. W. J. McWain, Signal Engineer, Detroit, Mich., representing Pere Marquette.

Mr. W. A. D. Short, Superintendent Signals, Lexington, Ky., representing Illinois Central.

Mr. Azel Ames, Jr., Signal Engineer, Cleveland, O., representing Lake Shore, Nickel Plate, L. E. & W. and C. & I. S.

Mr. E. A. Everitt, Signal Engineer, Detroit, Mich., representing Michigan Central.

Mr. H. J. Foale, Signal Engineer, Decatur, Ill., representing the Wabash.

Mr. A. Montzheimer, Chief Engineer, Joliet, Ill., representing E., J. & E. and C., L. S. & E.

Mr. A. Shane, Signal Engineer, Frankfort, Ind., representing Clover Leaf.

Mr. T. T. Irving, Res. Engineer, Detroit, Mich., representing Grand Trunk.

LAWS CONCERNING INTERLOCKING.

(Acts 1883, p. 55. In force March 2, 1883.)

By Agreement.

Section 1. When, and in any case, two or more railroads crossing each other at a common grade shall, by a system of interlocking or automatic signals, or by any works or fixtures to be erected by them, render it safe for engines and trains to pass over such crossing without stopping, and such works and fixtures shall first be approved by the Auditor of State, and the plan of said works and fixtures for such crossing, designating the place of crossing, shall have been filed with the Auditor of State, then, and in that case, it is hereby made lawful for the engines and trains of such railroad or railroads to pass over said crossing without stopping, any law, or the provisions of any law, now in force to the contrary notwithstanding. And all such other provisions and laws contrary hereto are hereby declared not to be applicable in such cases: Provided, however, That if the Auditor of State shall disapprove such plans, or fail to approve the same within twenty days after the filing thereof, the railroad company or companies interested or applying for such privilege may appeal therefrom, and apply to the Circuit Court of the county wherein such crossing is located, or the judge thereof in vacation, and the auditor shall certify his proceedings and transmit the same, together with all the papers

therein, to such court, and such court, or judge in vacation shall take jurisdiction thereof, and proceed to hear and determine the same: Provided, further, That when the appliances, or the electric system provided for in this act, shall be adopted by any railroad or railway company, such appliances or system shall not be used or put in at any railroad crossing in this State, to the detriment of any other railroad or railway company, unless such other company, by its proper officers, consent thereto in writing.

Engineer.

Sec. 2. The Auditor of State, or in case of appeal, the court or judge, if either deem it advisable, may appoint a competent civil engineer to examine such proposed plan and report the result of such examination for the information of such auditor, court or judge.

Fees Allowed.

Sec. 3. The Auditor shall be allowed for his services ten dollars for every day in which he shall be engaged in such duty, and the engineer shall be allowed such reasonable sum as the Auditor, court or judge shall award, and all costs and expenses shall be paid by the railroad company or companies in interest, which shall be taxed, paid or collected as in other cases.

(Acts 1897, p. 237. In force March 8, 1897.)

By Agreement.

Sec. 2. That when in case two or more railroads or a railroad and an electric road crossing each other at a common grade, or any railroad crossing a stream by any swing or draw-bridge, shall, by a system of interlocking, or by other works or fixtures to be erected by them or either of them render it safe for engines or trains to pass over such crossing or bridge without stopping, and such system of interlocking works or fixtures shall first be approved by the Auditor of State, and the plan of such interlocking works or fixtures for such crossing or bridge designating the plan of crossing shall have been filed with such Auditor, then and in that case it is hereby made lawful for the engines and trains of such railroad or railroads to pass over such crossing or bridges without stopping, any law or the provisions of any law now in force to the contrary notwithstanding: Provided, That the said

Auditor shall have and is hereby given power in case such interlocking system or other fixtures shall in his judgment prove to be unsafe or impracticable, to order the same discontinued, opportunity first being given to the person or company operating the same to be heard before said Auditor as to the propriety of such order. In case such order is made and enforced, the existing statutes relative to stopping at crossings shall apply until such time as a device approved by said Auditor is substituted.

By Petition.

Sec. 3. That in case where the tracks of two or more railroads, or the tracks of a railroad and an electric railroad cross each other at common grade in this State, any company owning any one of such tracks, whose managers may desire to unite with others, in protecting such crossing with interlocking or other safety devices, and shall be unable to agree with such others on the matter, may file with the said Auditor a petition stating the facts of the situation, and asking said Auditor to order such crossing to be protected by interlocking, or other safety devices; said petition shall be accompanied by a plan showing the location of all tracks and switches, and upon the filing thereof, notice shall be given to each company or persons owning or operating any track involved in such crossing, and the said Auditor thereupon view the site of such crossing, and shall, as soon as practicable, appoint a time and place for the hearing of such petition, at the time and place named for hearing, unless the hearing is for good cause continued, said Auditor shall proceed to try the question of whether or not the crossing shall be protected by interlocking or other safety devices, and shall give all companies and parties interested an opportunity to be fully heard; and after such hearing said Auditor shall enter an order upon a record book or docket, to be kept for that purpose, granting or denying such petition; and in case the same is granted, such order shall prescribe the interlocking or other safety devices for such crossing and all other matters which may be deemed proper to the efficient protection of such crossing, and in such order the Auditor shall designate the proportion of the cost of the construction of such plant, and the expense of maintaining and operating the same, which each of the companies or persons

concerned shall pay, and shall also fix the time within which such appliance shall be put in, such time, however, not to exceed ninety days from the making of such order.

Junior Road Builds.

Sec. 4. In case, however, one railroad company or an electric railroad company shall hereafter cross at grade with its track or tracks, the track or tracks of another railroad, the railroad company or the electric railroad company seeking to cross at grade shall be compelled to interlock such crossing to the satisfaction of the said Auditor, and to pay all cost of such appliance, together with the expense of putting them in and the future maintenance and operation thereof: Provided, This act shall not apply to crossings of sidetracks only.

Running Locked Crossings.

Sec. 5. Whenever interlocking or other safety devices are constructed and maintained in compliance with Sections 3 and 4 of this act, then and in that case it shall be lawful for the engines and trains of such railroad or railroads, and the cars of such electric railroad to pass over such crossing without stopping, any law or provisions of any law, now in force to the contrary notwithstanding; and all such other provisions of law contrary thereto are hereby declared not to be applicable in such case.

Penalty.

Sec. 6. Any person, company or corporation refusing or neglecting to comply with any order made by said Auditor in pursuance of this act, shall forfeit and pay a penalty of five hundred dollars per week for each week of such refusal and neglect, the same to be recovered in an action of debt in the name of the State of Indiana, and to be paid when collected into the county treasury of any county in which such suit may be tried.

Engineer.

Sec. 7. That the Auditor of State, if he deems it advisable, may appoint a competent civil engineer to examine such proposed plan, and report the result of such examination for the information of said Auditor.

Fees.

Sec. 8. That the Auditor shall be allowed for his services ten dollars for every day in which he shall be engaged in such duty, and the engineer shall be allowed such reasonable sum as the Auditor shall award.

Interurbans.

The Act of March 3, 1903, Acts 1903, p. 125, provides special proceedings whereby a street or interurban railroad may acquire crossing rights over another railroad, and provides in Section 1 of the act as follows: "At every crossing of the main track of a railroad company constructed under the special proceedings, aforesaid, the company desiring to cross shall, within six months after it commences to use such crossing, at its own expense, construct and likewise, at its own expense, maintain and operate a system of full interlocking works, with a derailing apparatus in the tracks of each company, of such design and character as will be best calculated to prevent collisions at such crossing, and will meet with the approval of the Auditor of State, and such proceeding shall be had and such notice shall be given in securing the approval of such interlocking works by the Auditor as the law governing the protection by interlocking devices of the crossings of two railroads may provide. The Auditor of State shall be allowed for his services in examining and approving or disapproving such interlocking works ten dollars per day, and he may, if he deem it advisable, employ a competent engineer to assist him, which engineer shall also be allowed a reasonable sum for his services, and the amounts due said Auditor and said engineer for such services shall be paid upon demand by the company desiring said crossing. The word "railroad," as used in this act, shall be construed to include belt railroads as well as other railroads.

Penalty.

Sec. 2. If any street railroad company shall fail or refuse to construct, maintain and operate a system of full interlocking works in the manner, at the time and upon the terms stated in the preceding section, it shall forthwith cease to use the crossing required to be protected by such interlocking works, and the com-

pany whose railroad is crossed by such street railroad company may forthwith remove such crossing, and said street railroad company shall thereafter have no right to renew and use said crossing until it shall have constructed and put in operation the interlocking works required by the preceding section.

EXTRACTS FROM THE LAW CREATING THE COMMISSION.

(Acts 1905, p. 83. In force April 15, 1905.)

Powers.

Sec. 3. The power and authority is hereby vested in the Railroad Commission of Indiana, and it is hereby made its duty, as hereinafter provided, to supervise all railroad freight and passenger tariffs, and to adopt all necessary regulations to govern car service and the transfer and switching of cars from one railroad to another at junction points or where entering the same city or town, and to supervise charges therefor; to require and supervise the location and construction of sidings and connections between railroads; to supervise the crossing of the tracks and sidetracks of railroads by other railroads now in process of construction or extension, or which may be hereafter constructed or extended, and to prescribe the terms and conditions and manner in which such crossings shall be made; and the character thereof, whether at grade or over or under grade, and the authority now vested in the Auditor of State under the laws of this State with reference to the crossing of railroads by other railroads, or by railroads operated by electricity, and the installation and maintenance of interlocking appliances at such crossings is hereby vested in the Commission. * * *

Rules.

Sec. 4, Par. (a). The Commission shall have power to adopt rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings of railroad companies and other parties before it, in the consideration of rates, orders, charges and other acts required of it under this law: Provided, That all persons interested in the result of any such investigation or hearing shall have the right to be present.

Duties.

Sec. 20. It is hereby made the duty of such Railroad Commission to see that the provisions of this act and all laws of this State concerning railroads are enforced and obeyed, and that violations thereof are promptly prosecuted, and penalties due the State therefor recovered and collected. And said Commission shall report all said violations, with the facts in their possession, to the Attorney-General or other officer charged with the enforcement of the laws and request him to institute the proper proceeding; and all suits between the State or the Commission and any railroad or express company shall be placed immediately upon the trial calendar of the courts wherein the same are pending, and shall have precedence over all other civil causes pending in such courts, to the end that there may be speedy trials and adjudications thereof.

(a) It shall be the duty of the Commission to investigate all complaints against the railroad company subject hereto, and to enforce all laws of this State in reference to railroads.

Application.

Sec. 21 (a) The provisions of this act shall be construed to apply to, and affect only the transportation of passengers, freight, express matters and cars between points within this State; and this act shall also apply to express companies: Provided, That this act shall not apply to street or interurban railroads, except as section three (3) substitutes the Railroad Commission, created hereby, for the Auditor of State, in respect to duties pertaining to the construction and maintenance of interlocking works at crossings of railroads and railroads operated by electricity.

LAWS CONCERNING RAILROADS CROSSING.

(Acts 1852, p. 409. In force May 6, 1853.)

Powers.

Sec. 13. Every such corporation shall possess the general powers, and be subject to the liabilities and restrictions expressed in the special powers following:

Crossings.

Sixth—To cross, intersect, join, and unite its railroad with any other railroad before constructed, at any point on its route and

upon the grounds of such other railroad company, with the necessary turnouts, sidings, switches, and other conveniences, in furtherance of the objects of its connections; and every company whose railroad is or shall be hereafter intersected by any new railroad shall unite with the owners of such new railroad in forming such intersections and connections, and grant the facilities aforesaid; and if the two corporations can not agree upon the amount of compensation to be made therefor, or the points or manner of such crossings and connections, the same shall be ascertained and determined by commissioners to be appointed as is provided hereinafter in respect to the taking of lands; but this section is not to affect the rights or franchises heretofore granted.

(Acts 1873, p. 186. In force March 7, 1873.)

Crossing Railroad Track.

Sec. 1. Where it becomes necessary for the track of one railroad company to cross the track of another railroad company, the company owning the road last constructed at such crossing shall, unless otherwise agreed to between such companies, be at the exclusive expense of constructing such crossing in a manner to be convenient and safe for both companies.

Repairs of Crossings.

Sec. 2. Whenever such railroad crossing is constructed in the manner provided for in the preceding section, it shall be the duty of each company, respectively, to maintain and keep in repair its own track, so as at all times to provide a ready, safe and convenient crossing for all locomotives or trains passing on either road at such point.

(Acts 1897, p. 237. In force March 8, 1897.)

Railroads Crossing Each Other.

Sec. 1. That where it becomes necessary for the track of one railroad company to cross the track of another railroad company, unless the manner of making such crossings shall be agreed to between such companies, it shall be the duty of the Circuit Court of the county wherein such crossing is located, or the judge thereof in vacation, to ascertain and define by its decree the mode of such crossing which will inflict the least practicable injury upon the

rights of the company owning the road which is intended to be crossed; and if in the judgment of such court it is reasonable and practicable to avoid a grade crossing, it shall by its process prevent a crossing at grade.

LAWS REGULATING OPERATION OF TRAINS OVER UNPROTECTED CROSSINGS.—PUBLIC OFFENSES.

(Acts 1905, p. 747. In force April 15, 1905.)

Stop at Crossing.

Sec. 668. Whoever, being the engineer of any locomotive or the motorman of any interurban electric car running upon any railroad track, upon or over which passengers are or may be transported, runs such locomotive or interurban electric car across or upon the track of any other railroad or interurban railroad at a place where no system of interlocking works or fixtures is maintained as provided by the laws of this State, without first coming to a full stop before entering upon or crossing such other track, and without first ascertaining that there is no other train, locomotive or car in sight, approaching and about to pass over such other track; or whoever, being such engineer or motorman, runs such locomotive or interurban electric car upon or across such track when a locomotive or car is in sight, approaching and about to pass upon and over such crossing on such other track, shall, on conviction, be fined not less than one hundred dollars nor more than one thousand dollars, and be imprisoned in the county jail not less than three months nor more than one year; and if any person shall be injured or be killed by reason of such crossing, such engineer or motorman so violating the provision of this section shall be imprisoned in the State prison not less than two years or more than fourteen years.

Deceiving Engineer.

Sec. 699. Whoever shall falsely report to the engineer of any locomotive or motorman of any interurban or electric car running upon any railroad track, upon and over which passengers are or may be transported, that there is no train or locomotive upon the track of any other railroad or interurban railroad, in sight, and approaching the place where such roads cross, or upon such cross-

ing, or whoever, being the conductor of any train or interurban or electric car, orders and directs the engineer or motorman to violate the provisions of the preceding section; or whoever, being a brakeman of any train of cars, by reason of his gross carelessness or wilful neglect of duty, causes such train or locomotive or such interurban or electric car to run across or upon such crossing, shall, on conviction, be fined not less than one hundred dollars nor more than one thousand dollars, and imprisoned in the county jail not less than three months nor more than one year; and if any person shall be injured or killed by reason of the violation of any of the provisions of this section, the person so violating such provision or provisions shall, on conviction, be imprisoned in the State prison not less than two years nor more than fourteen years.

Running on Crossing.

Sec. 670. Whoever, being an engineer or motorman, permits his locomotive or interurban or electric car to run upon or across the track of any other railroad or interurban railroad at a crossing not provided with a system of interlocking works or fixtures, before the locomotive or train coming upon the other track shall have passed over such crossing, if the locomotive or train on the other track shall arrive at the crossing first, shall, on conviction, be fined not less than one hundred dollars, nor more than one thousand dollars, and imprisoned in the county jail not less than three months nor more than one year; and if any person be killed or injured by reason of the violation of any provision of this section, the person so violating such provision shall, on conviction, be imprisoned in the State prison not less than two years nor more than fourteen years.

RULES.

In the administration of the foregoing laws of the State of Indiana, the Railroad Commission of Indiana adopts as the settled policy of the Commission, hereby giving notice to all concerned that whenever it is practicable and special conditions are not shown requiring an exception, a railroad crossing another railroad in this State shall cross under or above said railroad and not at grade, and the Railroad Commission of Indiana will observe the following rules concerning interlocking devices, which are now

promulgated, for the information and guidance of all interested parties, adopted August 24, 1906, to become effective September 20, 1906:

Rule No. 1. When plans are presented for a crossing which is to be interlocked by agreement between the connecting roads, the road presenting the plans must furnish the Commission with the approval of the interest connecting lines indorsed upon the plans, or a letter from the proper officer thereof approving the plans presented.

Rule No. 2. When a petition is filed with the Commission pursuant to Section 3 of the Acts of 1897, there shall be filed with the same as many copies as there are roads interested in the crossing. Such petition and accompanying maps shall comply with such section, and in addition thereto embrace the following:

(a) Copies of all contracts or agreements existing between the connecting roads concerning the crossing.

(b) An estimate of the probable cost of constructing a manual interlocking device at the crossing.

(c) An estimate of the probable cost of constructing a power interlocking device at the crossing.

(d) An estimate of the probable cost of annual maintenance and operation for each character of device.

(e) A statement of the number of levers necessary to properly control the crossing, and the functions properly chargeable to each road.

(f) A statement of the daily train movement over such crossing by each company.

Rule No. 3. Petitions filed pursuant to Rule No. 2 will be heard at the site of the crossing, or at such other place as the Commission may determine after notice to the parties. The roads against which the petition is presented at the time of the hearing may file an answer admitting or denying the statement in the petition and may file a counter statement concerning the matters required by "a to f" inclusive of Rule 2.

Rule No. 4. If a crossing is ordered interlocked upon petition, and the interested roads fail, for thirty days after the Commission's order, to agree as to the manner of complying with the Commission's order and to proceed with the work, then the Commis-

sion, after notice to the roads and a hearing, will assign the construction, maintenance and operation of the device to one of the roads, and authorize it to collect compensation from the other roads, in accordance with the order of the Commission.

Rule No. 5. All plans to protect crossings, presented by agreement of the roads, or to comply with the Commission's order upon petition, must be drawn to a scale of not less than fifty feet to one inch, and be filed in duplicate and contain the following:

(a) Map of the territory, showing all the tracks, curves, sidings, switches, cross-over tracks and connecting tracks between roads, also all buildings, trees and other obstructions to view. Also the proposed location of the interlocking tower.

(b) All grades upon all roads shall be plainly marked on either side of the crossing. The location of all bridges between the derail and crossing shall be shown. The elevation or depression of all tracks above or below the contiguous territory shall be shown.

(c) A complete showing of the ground plan of the proposed device in all its parts, and especially the location of derails and home and distant signals. Tower construction and interior plan will be passed upon only after completion.

Rule No. 6. In all devices hereafter constructed or rebuilt the derails in main track shall be located not less than five hundred feet in advance of the crossing or fouling point which it is intended to protect unless the Commission shall determine, after investigation, that local conditions warrant a different location, in which event the Commission shall fix the location of derail.

(a) If such local conditions exist requiring the derail to be nearer the crossing than required by this rule, a detailed, written statement of such local conditions shall be filed with the plan and submitted to the Commission for its consideration.

Rule No. 7. If, in the judgment of the Commission, the use of guard rails is warranted, guard rails of such length as the Commission may determine will be approved in plans and plants having derails five hundred feet or more from the crossing or fouling point. In all other cases guard rails will not be approved or allowed, except under special conditions, to be shown by plans, and detailed, written statement accompanying plans for submission to

the Commission. The Commission reserving authority to make exceptions to this rule when the special conditions demand it, or to order the use of guard rails upon its own motion.

(a) The use of guard rails, contrary to this rule, in plants now in operation is condemned, and the different roads are requested to remove the same by March 1, 1907, unless within that time they shall make to the Commission a showing of special conditions necessitating their use, and procure the authority of the Commission for their continuance.

Rule No. 8. The Commission will not inspect complete plants until the applicant files with the Commission:

(a) Complete layout of plant, as required by Rule No. 5, having all points of control duly numbered to correspond with the number of the lever used in its control.

(b) Complete locking sheet showing the exact manner in which the plant is installed.

(c) Complete manipulation sheet, showing manner of operation in setting up each route governed by the plant.

(d) Copy of the rules issued by the applicant, for the government of employees having charge of interlocking devices.

Rule No. 9. Completed plant must be connected up ready for service before inspection is requested, with instructions that all trains come to a full stop at home signal.

APPENDIX VII.

Financial Statement.

**FINANCIAL STATEMENT COVERING PERIOD FROM MAY 1, 1905,
TO OCTOBER 31, 1906.**

EXHIBIT "A"—Condensed Statement.

Received from State Treasurer on warrants of State Auditor from May 1, 1905, to October 31, 1905	\$7,608 99	
From October 31, 1905, to October 31, 1906.....	21,048 67	\$28,657 66
<hr/>		
Disbursed on orders of Commission from May 1, to October 31, 1905:		
Disbursed as per detailed statements, Exhibits B and C.....	\$7,608 99	
Disbursed from October 31, 1905, to October 31, 1906, as per detailed statements, Exhibits B and C	21,048 67	28,657 66
<hr/>		\$28,657 66

**EXHIBIT "B"—Detailed Statement, fiscal year
settlements:**

Paid into State Treasury unexpended balance, October 31, 1905.....	\$172 46	
Paid into State Treasury unexpended balance, October 31, 1906.....	500 00	672 46
<hr/>		
Balance expended		\$27,985 20

**EXHIBIT "C"—Detailed Statement of expendi-
tures from May 1, 1905, to October 31, 1906:**

For office furniture and fixtures.....	\$394 57
For express transfer and messenger service....	14 54
For postage	276 11
For telephone rental and service.....	218 93
For office supplies and publications.....	38 15
For telegraph service	33 22
For extra office and other help, taking evidence, getting out transcript, etc.....	1,154 57
For fees paid sheriffs and for publication of legal notices	209 02
For fees paid engineer, inspecting interlocking plans, plants, etc.....	830 49
For traveling expenses, Commission, secretary and clerk	540 63
For counsel fees paid under the direction of the Attorney-General, as provided for in general laws, Chapter 165, approved March 7, 1905....	*275 00
For salaries, three Commissioners, May 1, 1905, to October 31, 1906, \$4,000 each, per year.....	17,999 97

*Amount specific appropriation, \$3,000 per annum.

For salary one secretary, May 1, 1905, to October 31, 1906, \$2,500 per year.....	3,750 00	
For salary one clerk, May 1, 1905, to October 31, 1906, \$1,500 per year.....	2,250 00	
	<hr/>	
Total expenditures for all purposes.....		\$27,985 20
		<hr/>
		\$27,985 20
Collections account fees, copies of evidence, etc., and paid into State Treasury:		
For copies of evidence and official papers.....	\$994 01	
For fees for examination, interlocking plans and plants, by Commission and engineer.....	1,060 69	
For fees for service of process by sheriffs, and other officers, paid by litigants.....	20 86	
For fees for publication of notices.....	6 00	
	<hr/>	
Total collected from all sources.....		2,081 56
		<hr/>
Net expenditures in excess of collections....		\$25,903 64

CHAS. B. RILEY, Secretary.

INDEX.

Accidents—	PAGE
Total number injured and killed.....	21-23
Bash Packing Co. et al. v. Southern et al. (Fertilizer Rates)....	8-9, 108-117
Bash, S. & Co. v. B. & O. et al. (Car Service).....	126
Coal Rates to Gas Belt.....	7, 11, 128-129, 157-184
Coal Rates Generally (See Rates, Coal).....	
Car Service Rules.....	10, 117-126
Class Rates	8, 13, 55, 74, 249-257
Classification (Wooden Plugs).....	127-128
Cases, Formal; Other than Interlocking Cases (See Interlocking)—	
Bash, S. & Co. et al. v. B. & O. et al. (Car Service).....	126
Bash Packing Co. et al. v. Southern et al. (Fertilizer Rates).....	8-9, 108-117
Evansville Oil Co. v. L. & N. (Oil Rates).....	137
Horn, Wilson E., v. C., I. & L. (Rates on Coal).....	104-106
Indiana Veneer and Lumber Co. et al. v. B. & O. et al. (Car Service	10, 117-126
Martin, Martin & Co. v. P., C., C. & St. L. (Switch Matter).....	126
National Refining Co. et al. v. B. & O. et al. (Oil Rates).....	148-149
North Vernon Box Co. v. P., C., C. & St. L. et al. (Classification)	127-128
Romona-Oolitic Stone Co v. C., I. & L. et al. (Coal Rates).....	75-80, 81-90
Roots, P. H. & F. M., & Co. et al. v. C., H. & D. et al. (Switch Connection)	131-136
Schnull & Co. v. Vandalla (Class Rates).....	8, 55, 74, 249-257
Southern Indiana Ry. Co. v. C., C., C. & St. L. (Transfer Cars).....	139-148
Southern Ry. Co. (Ex Parte), Long and Short Haul Application Rates on Coal.....	100
Cases, Interlocking—	
At Anderson, Ex Parte, P., C., C. & St. L. and C., C., C. & St. L. et al.	100
At Avilla, Ex Parte, B. & O. & C. and G. R. & I.....	103
At Burnette, Ex Parte, C., C., C. & St. L. and C. & E. I.	103-104
At Clarke Junction, Ex Parte, P., Ft. W. & C., C., L. S. & E. et al.	55
At Columbia City, Ex Parte, Penna. Co., operating P., Ft. W. & C. et al.....	54
At Crawfordsville Junction, Ex Parte, C., C., C. & St. L. and C., I. & L. et al.....	128
At Decatur, C. & E. v. G. R. & I. et al.....	93-94
At E. Chicago, Ex Parte, Ind. Harbor and C. & I. Airline.....	90
At Frankfort, Ex Parte, Ind. & N. W. Trac. Co. and C., I. & L....	129
At Handy, Ex Parte, Ind. Har. and L. E. & W.....	91-92
At Hays, Ex Parte, Ind. Har. and G. T. W.....	92-93

Cases, Interlocking—Continued.

	PAGE
At Highlands, Ex Parte, Ind. Har. and C. & E.....	93
At Highlands, Ex Parte, C., C. & L. and C., I. & S. et al.....	151
At Hillsdale, Ex Parte, Chic. & E. I. and C., I. & W.....	106
At Hammond, C., C. & L. v. C., I. & L.....	130
At Hammond, Ex Parte, C. & E. and N. Y., C. & St. L.....	152
At Hartsdale, Ex Parte, P., C., C. & St. L., E., J. & E. et al.....	131
At Hobart, Ex Parte, E., J. & E. and P., Ft. W. & C.....	148
At Indianapolis, Ex Parte, Vandalia and Indpls. Union.....	54
At Indiana Harbor, Ex Parte, Ind. Har. and L. S. & M. S. et al..	102
At Indiana Harbor, Ex Parte, Ind. Har. and P., Ft. W. & C....	102-103
At Jeffersonville, Ex Parte, P., C., C. & St. L., C., C., C. & St. L. et al.	151
At Kentland, Ex Parte, Ind. Har. and P., C., C. & St. L.....	107
At Lakeville, Ex Parte, Vandalia and Wabash.....	100-101
At La Crosse, P., C., C. & St. L. v. C., I. & L. et al.....	101
At Lebanon, Ex Parte, C., C., C. & St. L. and Cent. Ind.....	129
At Maynard, C., I. & L. v. P., C., C. & St. L. et al.....	37-54
At Marion, Ex Parte, Ind. Nor. Trac. Co. and C., C., C. & St. L....	55
At Morocco, Ex Parte, Ind. Har. and Chic. & E. I.....	90
At Milford Junction, Ex Parte, B. & O. and C., C., C. & St. L. et al.	131
At Midland, I. & L. v. S. I.....	136
At North Judson, Ex Parte, P., C., C. & St. L. and C., C. & L. et al.	101
At New Paris, Ex Parte, Wabash and C., C., C. & St. L.....	149
At Osborne, Ex Parte, Ind. Har. and N. Y., C. & St. L.....	92
At Redkey, P., C., C. & St. L. v. M. & P. Trac. Co.....	94-97
At St. John, Ex Parte, Ind. Har. and C., I. & L.....	90-91
At Stewart, Ex Parte, Ind. Har. and C. & E. I.....	91
At Sheff, Ex Parte, Ind. Har. and C., C., C. & St. L.....	91
At Sloan, Ex Parte, Ind. Har. and I. C.....	92
At Schneider, Ex Parte, Ind. Har. and I., I. & I.....	93
At South Bend, Ex Parte, N. J., I. & I. and G. T. W. et al.....	103
At Springhill, Ex Parte, So. Ind. and E. & T. H.....	130
At South Bend, Ex Parte, No. Ind. and M. C.....	150-151
At Tollestone, Ex Parte, M. C. and P., Ft. W. & C.....	104
At Tollestone, Ex Parte, P., Ft. W. & C. and M. C.....	137
At West Indianapolis, Ex Parte, C., C., C. & St. L. and C., H. & D.	130
At Whiting, Ex Parte, P., Ft. W. & C. and C. T. T.....	151

Cases, Informal—

Advance Grain Co. v. Central Ind. (Car Shortage).....	204
Advance Grain Co. v. Central Ind. (Export Grain Rates).....	205
Adams & Raymond v. Railways (Rates on Logs).....	227
Arnold, H. C. & Co. v. L. E. & W. (Coal Rates).....	225
Attica Bridge Co. et al. v. C. & E. I. (Coal Rates).....	199
Ayrshire Coal Co. v. E. & T. H. (Coal Rates).....	187
Austin, Thompson & Co. v. C., I. & L. (Overcharge on Shpt. Books)	233
Board of Commissioners Hamilton Co. v. Cent. Ind. (Highway Crossing)	186

Cases, Informal—Continued.

	PAGE
Bash, S. & Co. v. All Railways (Car Service).....	193, 194
Corydon Hub Factory v. L., N. A. & C. (Discrimination, Switching)	188
Coppock, S. P. & Co. v. Monon (Lumber Rates).....	194
Cook, Simon Co. v. Wabash et al. (Rates Scrap Iron).....	225, 228
Coal Operators v. Big Four, E. & T. H. and S. I. (Failure to Move Cars)	237-243
Cook, Simon & Co. v. C. & E. I. et al. (Rates on Scrap Iron).....	244
Day, T. E. v. Panhandle et al. (Lumber Rates).....	210
Dupont, E. T. Co. v. Southern Ind. (Rates on Powder).....	213
Dangerous Bridges, etc.—T., St. L. & W.....	223-224
Downer, Wm. B. v. Pullman Car Co. (Excessive Rates).....	226
Elwood Electric Light Co. v. P., C., C. & St. L. et al. (Coal Rates)	157-184
Eaglesfield Lumber Co. v. Indpls. Union (Transfer of Cars).....	217
Finch & McComb v. Wabash (Car Shortage).....	246
Frankfort Ice and Coal Co. v. C., I. & L. et al. (Coal Rates).....	245
Fauvre Coal Co. v. Vandalia (Car Shortage).....	192
Fisher, W. F. et al. v. E. & T. H. (Rates on Melons).....	227
Fort Wayne, Manufacturers of v. Railroads (Coal Rates).....	205-209
Goodrich Bros. Hay and Grain Co. v. C., C. & L. (Export Grain Rates)	247
Goodrich Bros. Hay and Grain Co. v. G. R. & I. (Car Shortage)..	194
Gold-Morrow Milling Co. v. B. & O. S. W. (Excessive Coal Rates).	227
G. R. & I. In re (Discrimination Passenger Rates).....	211-212
Higgins, C. R. Artificial Ice Co. v. L. S. & M. S. (Ice Rates).....	244
Hobart, M. Cable Co. v. Vandalia (Coal Rates and Service).....	188
Herzog, M. v. Big Four (Rates on Wool).....	192
Hare, W. J. v. Panhandle (Car Shortage).....	193
Hinkle, J. K. & Co. v. Big Four (Grain Rates):.....	199
Hauger, W. J. v. C., I. & L. (Rule 1,000, Capacity Cars).....	220
Howe, W. H. v. American Express Co. (Failure to Deliver Pkgs.)	220-222
Harman, W. S. Coal Co. v. Big Four (Delay Switching Coal Cars)	232
Harman Coal Co. et al. v. Big Four and So. Ind. (Embargo on Coal Shipments)	234-236
Holsted Lumber Co. v. Vandalia (Switching Lumber).....	244-245
Hilligoss & Son v. Big Four et al. (Anthracite Coal).....	245
Harman, W. S. Coal Co. v. E. & T. H. et al. (Coal Rates).....	247
Jones Lumber Co. v. C., I. & L. (Coal Rates).....	213
Kehoe, T. M. & Co. v. E. & T. H. and E. & I. (Car Service)....	189-191
Killerman, J. W. et al. v. Big Four (Passenger Rates).....	195
Kennedy Bros. et al. v. Big Four et al. (Interchange Switching)..	198
Kehoe, T. M. & Co. v. E. & T. H. (Refusal to Forward Cars)....	202
Kitchell Elevator Co. v. C., C. & L. (Car Shortage).....	229
Kinsey Bros. v. P., Ft. W. & C. and Big Four (Interchange Switching)	236
Lee, C. W. v. Monon (Stone Rates).....	155
Luckett, Jno. H. v. Southern (Coal Rates).....	210-211

Cases, Informal—Continued.

PAGE

Martin, Martin & Co. v. Big Four et al., Newcastle (Interchange Switching)	188
Meade Grain Co. v. Dayton & Union (Interchange Switching)....	197
Martin & Martin Co. v. P., C., C. & St. L. (Switch Extension)....	198
Myers, Geo. F. et al. v. Big Four (Dangerous Crossing).....	202-204
Myers, S. W. v. P., C., C. & St. L. (Elevator Switch).....	205
Martin, H. C. & Co. v. C. & E. I. (Rates on Brick).....	214
Million, D. M. v. P., C., C. & St. L. (Rate Sand Plaster).....	218
Mossman Lumber Co. v. Southern (Lumber Rates).....	226
McFarland Carriage Co. et al. v. C., H. & D. et al. (Switch Connection)	202
McCoy Bros. v. C., H. & D. (Failure to Furnish Grain Doors)....	215
McCoy Bros. v. C., H. & D. (Car Shortage).....	228
McFarland Carriage Co. v. Railways (Capacity of Cars).....	230
McConnell & Kennedy v. C. & E. I. (Export Grain Rates).....	233
Nixon, J. T. v. Wabash (Poultry Shipments).....	246
Owens, J. W. v. Panhandle (Car Shortage).....	194
O'Brien, J. F. v. Monon (Long and Short Haul).....	195
Odon Milling Co. v. So. Ind. (Excessive Grain Rates).....	236
Polar Ice and Fuel Co. et al. v. Big Four (Switching Charges, Indianapolis)	157
Poultry Shippers v. E. & T. H. (Freight Service).....	187
Phares & De Wees v. T., St. L. & W. (Car Shortage).....	193
Perfect, A. H. & Co. v. Railroads (Car Shortage).....	193
Powell, Jno. F. v. Big Four (Switching Coal).....	201
Peru, Manufacturers of v. Railroads (Coal Rates).....	209
Railroad Commission of Indiana v. L. S. & M. S. (Home Signals). .	244
Rauh, E. & Sons et al. v. Railroads (Fertilizer Rates).....	197
Riggs, Jas. R. et al. v. E. & T. H. et al. (Hay Rates).....	184
Rich, Jacob D. v. C. & E. I. (Car Shortage).....	200
Romona-Oolitic Stone Co. v. C., I. & L. (Notations on Exp. Bills)..	204
Risher, W. W. v. E. & I. (Passenger Rates).....	249
Scales Coal Co., T. D. v. P., C., C. & St. L. and So. (Coal Rates)..	155
Southern Ry. Co., E. & T. H. et al. (Crossing, Princeton).....	192
Stevenson, Roy & Co. et al. v. Southern (Car Shortage).....	192-193
Southern Railway Co. (Application to Approve Coal Rates, Evansville)	187
Starz, M. F. & Co. et al. v. C. & E. I. (Car Shortage).....	196-197
Starz, M. F. & Co. et al. v. C. & E. I. (Seaboard Rates, Grain)....	197
Smith, Chas. F. v. Southern Indiana (Rates on Ties).....	209
Smith, Jno. D. & Son v. Wabash et al. (Long and Short Haul)....	214
Samuels, Willis et al. v. L. E. & W. (Seaboard Grain Rates).....	215
State of Indiana v. C., I. & L. (Long and Short Haul).....	216
State of Indiana v. C. & E. I. (Long and Short Haul).....	217
Smallwood & Kinser v. C., I. & L. (Live Stock Rates).....	226
Slider, E. T. v. C., I. & L. (Capacity Coal Cars).....	230
Stafford, J. R. v. G. R. & I. (Delay Billing Cars).....	232
Stafford, G. B. v. G. R. & I. (Grain Rates).....	248
Thomas, R. Y. v. Southern (Coal Rates).....	155

Cases, Informal—Continued.

PAGE

Travelers' Protective Assn. v. All Railways of State (Excess Baggage)	184-185
Toledo, Ft. Wayne & Western v. Ft. W. & W. V. (Protecting Crossing)	212-213
Terre Haute Paper Co. v. E. & T. H. (Rates and Switching Straw) ..	247
Vandalia, E. & T. H. and B. & O. S. W. (Crossing in Vincennes)..	185
Veedersburg Clay Co. v. C. & E. I. (Coal Rates).....	202
Veedersburg Clay Co. v. Big Four (Rates on Brick).....	201
Vant, T. A. v. L. E. & W. (Car Shortage).....	233
Watkins v. Panhandle (Bill of Lading).....	174
Winchester Tile Co. v. G. R. & I. (Switching Charges).....	229
Winkler, C. C. v. E. & T. H. (Coal Rates).....	248
Cases, Prosecutions—	
State of Indiana v. Adams Express Co. (Requiring Delivery Packages)	15
State of Indiana v. American Express Co. (Requiring Delivery Packages)	15
State of Indiana v. C., I. & L. (Long-and-Short-Haul Clause).....	14
State of Indiana v. C. & E. I. (Long-and-Short-Haul Clause).....	14
State of Indiana v. United States Express Co. (Requiring Delivery Packages)	15
Discrepancies in Class Rates Discussed.....	13
Dangerous Bridges, Cranes, etc., T., St. L. & W.....	223-224
Dangerous and Defective Bridges (Putnamville).....	230-232
Equipment and Coal Tonnage (Roads Initiating Shipments, Indiana)..	18
Employees, Average and Total Wages Paid on Roads Operating in Indiana	21
Empty Car Mileage in Indiana.....	23
Evansville Oil Co. v. L. & N. (Oil Rates).....	137
Financial Statement	24, 339-340
Fertilizer Rates	108-117
Forms Approved by the Commission.....	320-322
Fort Wayne, Manufacturers of v. B. & O. et al.....	128-129
Grain Rates	13-14, 199, 236, 248
Grain Rates, Export	197, 205, 215, 233-247
Hörn, Wilson E. v. C., I. & L. (Rates on Coal).....	104, 106
Interlocking Cases (See Cases, Interlocking)—	
Interlocking, Laws Concerning	324-328
Interlocking, Laws Concerning Interurbans.....	328-329
Interurbans, Laws Concerning.....	328-329
Indiana Veneer and Lumber Co. et al. v. R. & O. et al. (Car Service)	10, 117-126
Laws—	
Railroad Commission Law.....	283-305
Railroad Commission Law, Extracts from.....	329-330
Concerning Interlocking Crossings.....	324-328

Laws—Continued.	PAGE
Concerning Interlocking Crossings, Interurban.....	328-329
Concerning Railroad Crossings.....	330-332
Concerning Operating Trains Over Unprotected Crossings.....	332-333
(See Rules)	
Long and Short Haul, Applications Under—	
Southern Ry. (Coal).....	100
E. & T. H. R. R. (Coal).....	106
E. & I. R. R. (Coal).....	107
Vandalia and L. E. & W. (Coal).....	138
Vandalia and C., I. & L. (Coal).....	149
Martin, Martin & Co. (Switch Extension).....	126
North Vernon Box Co. v. P., C., C. & St. L. et al. (Classification)...	127-128
National Refining Co. et al. v. B. & O. et al. (Oil Rates).....	148-149
Officers—Organization—	
Commissioners—Appointment, Salary, term, etc.....	283-284
Secretary—Appointment, Salary, etc.....	284-285
Clerk—Appointment, Salary, etc.....	284-285
Pullman Co. (Not Under Jurisdiction of Commission).....	34, 226
Polar Ice and Fuel Co. et al. v. C., C., C. & St. L. (Switching Charges)	157
Rates—	
Brick	201, 214
Coal, Gas Belt.....	7, 11, 128-129, 157-184
Coal	7-11, 75, 80, 81-90, 97-100, 106, 107, 138, 149, 155-156, 184, 187-188, 195-202, 205-209, 210, 213, 225-227, 245, 247-248
Coal Oil (Petroleum).....	9, 137, 148-149
Class, Vandalia	8, 55-74
Fertilizer	8-9, 108-117
Grain	13, 14, 236-248
Grain (Export Rates).....	197, 205, 215, 233-247
Ice	244
Live Stock	226
Lumber	210, 228
Logs	227
Melons	227
Passenger	195, 211, 249
Poultry	246
Powder	213
Sand and Plaster.....	218
Scrap Iron	225, 228, 244
Stone	155
Straw	247
Ties ((Railroad Cross).....	209
Reports of Railroads.....	16
(See Tables).	
Recommendations by Commissioners.....	25-34
Romona-Oolitic Stone Co. v. C., I. & L. (Coal Rates).....	75-80, 81-90
Roots, P. H. & F. M. & Co. et al. v. C., H. & D. et al. (Switch Con- nection	131-136

	PAGE
Statistics (See Tables).....	260-280
Switch Extension—Newcastle	126, 198
Switch Connection—Connersville	131-136, 202
Switching Charges—Indianapolis	157
Switching Charges—Winchester	229
Switching Interchange—Elwood	157-184
Switching Interchange—Newcastle	188
Switching Interchange—Union City	197
Switching Interchange—Templeton	198
Switching Interchange—Warsaw	236
Switching Interchange—Brazil	244
Schnull & Co. v. Vandalia (Class Rates).....	8, 55-74, 249-257
Southern Indiana Ry. Co. v. C., C. & St. L. (Transfer Cars).....	139-148
Southern Ry. Co. (Ex Parte), Long and Short Haul Application, Rates on Coal	100

Tables—

Table No. 1, Statement of Mileage.....	260-261
Table No. 2, Statement of Assets.....	262-263
Table No. 3, Statement of Liabilities.....	264-265
Table No. 4, Receipts, Income Account Entire Line.....	266-267
Table No. 5, Disbursements, Income Account Entire Line.....	268-270
Table No. 6, Operating Statistics.....	271-272
Table No. 7, Employes and Wages in Indiana.....	273-274
Table No. 8, Accidents in Indiana.....	275
Table—Average Rate per cwt., 5-mile Blocks.....	279-280
Table—Miscellaneous Compilation, Operating Roads.....	17
Table—Coal Equipment and Tonnage Initiating Roads, Indiana..	18, 19-20
Table—Classifying Employes of Railroads, Indiana.....	21
Table—Coal Rates, Comparing C., I. & L. with Other Roads.....	87-88
Table—Coal Rates on Southern Ry.....	156
Table—Hay from Stations on E. & T. H. and E. & I.....	190

Stanford University Library
Stanford, California

**In order that others may use this book,
please return it as soon as possible, but
not later than the date due.**



